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SALUS POPULI SUPREMA LEX ESTO

“The welfare of the people shall be the supreme law.”



MATT BLUNT

SECRETARY OF STATE

MISSOURI
REGISTER

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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at <http://www.sos.mo.gov/adrules/pubsched.asp>

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RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 28, *Missouri Register*, page 27. The approved short form of citation is 28 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation , i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—The most recent version of the statute containing the section number and the date.



FROM THIS ANGLE . . .

Automation is Happening . . . especially in Ad Rules!

You have been hearing in this column from time-to-time that we are in the process of automating the administrative rules process. We have automated our internal processes to a great degree. We now have an electronic log of when rulemakings are filed and soon we will have an up-to-the-minute status of where in the process a particular rulemaking is presently lodged.

We are very excited about the new system – it utilizes the latest Microsoft technology with web-based Integration of Word, Web application and a SQL server database. The system is template based and we have (with the help of our software architect), developed specific templates for rulemaking. The use of this template will greatly enhance your user capabilities. The learning curve will be very low because it is a Microsoft Word template and most, if not all of us, know Word. This will truly be an easier, faster, cheaper way for you to file your rulemakings, whether they are new rules or rule amendments or rescissions. Once trained, we believe you will really like the new way of doing business and you will find the templates to be very “user friendly.”

In order to make the automation as painless as possible from your end, we are in the full midst of converting all 10,000 pages of the *Code of State Regulations* into a Microsoft format that will simplify your utilization of text. We are happy to say we have only 9,000 pages to go! We will then begin to bring on select agencies, utilize them for our “guinea pigs,” and test the usability from an outside perspective. As we progress, we will begin to systematically bring other agencies online. If you or your agency anticipates a large number of rulemakings in the immediate near future, please let me know, as soon as possible. This will assist us in determining which agencies we will train first and which ones will be trained later. Unfortunately, it would be impossible for us to train all 189 state agencies at one time. Of course, those agencies who seldom, if ever, revise their rules will be the last ones to be trained.

Point of Clarification on Withdrawals

We have experienced some level of confusion in recent months (both from the agency side and from some newer staff on our side). When filing an order of withdrawal, JCAR must have their thirty (30) days before the final order of withdrawal can be filed with our office, just like any other order of rulemaking.

If there is a timing consideration, JCAR is very willing to attempt to accommodate agencies by issuing a waiver of a portion of their review period. In some cases, JCAR will waive most, if not all of their thirty (30) day review, upon request to JCAR staff.

For clarification, please review sections 536.021.1, 536.021.5, and 536.024.5, RSMo. If there are questions, please call our office. It is our intention to assist you whenever needed – we believe this is our duty to you, our customers.

Surveys – Thanks – and Please Complete and Return!!

To those of you who have completed and returned the survey we recently sent – thank you! We appreciate your comments and your candor. We want you to be completely honest in your responses – this will only help us to serve you better. To those of you who have not yet completed your survey, please take five (5) minutes and do so today. We value your opinion and appreciate your input. The survey is very short and easily completed and would be invaluable to us to receive the same. Out of 161 surveys sent out – we have only received 56 back – so, ***we still need to hear from 105 of you!!*** We thank you in advance for your response.

Once again, we thank you for your willingness to work with us on your corrections and issues, and, likewise, we are ready to assist you whenever needed.

Sincerely,



Lynne C. Angle, Director
Administrative Rules Division

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 30—Animal Health
Chapter 2—Health Requirements for
Movement of Livestock, Poultry and Exotic Animals**

EMERGENCY AMENDMENT

2 CSR 30-2.020 Movement of Livestock, Poultry and Exotic Animals Within Missouri. The department is amending section (1).

PURPOSE: *This emergency amendment addresses the granting of brucellosis-free status to Missouri as it impacts the cattle producers, dealers, and livestock markets. No provision has been made in previous or existing regulations for the achievement of this status and the subsequent modification of testing requirements for Missouri producers.*

EMERGENCY STATEMENT: *This emergency amendment sets up immediate regulatory relief for the cattle industries within Missouri as brucellosis-free status is granted by USDA-APHIS. Current regulations impose a significant financial burden on the Missouri cattle industries as required of brucellosis Class A state. This new amendment will reduce the required testing and health certification of animals for intrastate commerce, and the new brucellosis-free status will open up interstate commerce as never before during the Brucellosis Control and Eradication Program. Livestock markets will no longer provide at-market test screening, but will instead collect blood sam-*

ples to be sent directly to the Federal/State Cooperative Brucellosis Laboratory. This will enhance processing time of cattle coming into the market, making the system more efficient and more cost-effective. In addition, exhibition requirements within Missouri will allow resident producers to transport and exhibit cattle without health certification or brucellosis testing.

The scope of this rule is limited to the circumstances which created this emergency and complies with the protection extended in the Missouri and United States Constitutions. In developing this rule the agency has encouraged discussion with interested parties and provided them the opportunity to offer their comments. The agency believes this emergency amendment to be fair to all persons and parties under the circumstances. This emergency amendment was filed March 5, 2004, effective March 15, 2004 and expires August 27, 2004.

(1) Cattle and Bison.

[(A) All test-eligible animals exchanged, bartered, leased or sold within Missouri must be accompanied by a Certificate of Veterinary Inspection except for animals consigned to a federal- or state-supervised market or slaughter establishment, if a waybill, bill of lading, backtag or owner/shipper statement accompanies the shipment showing origin and destination.

(B) A Certificate of Veterinary Inspection shall be void thirty (30) days after issue.]

[(C)] (A) Brucellosis.

[1. Animals eighteen (18) months of age or over exchanged, bartered, leased or sold within Missouri must have a negative test for brucellosis within the preceding thirty (30) days, except—

A. Steers and spayed heifers;

B. Official calfhood-vaccinated (OCV) heifers of the beef breeds under twenty-four (24) months of age and dairy breeds under twenty (20) months of age if not parturient (springer) or post-parturient;

C. Animals from a certified brucellosis-free herd;]

[D.] 1. Animals consigned from a farm to an approved market shall be tested prior to sale. Markets may apply to the state veterinarian for permission to backtag slaughter animals without testing if consigned directly to slaughter in a sealed vehicle[;].

[E. Animals consigned directly to a slaughter establishment; and

F. Finished-fed heifers under two (2) years of age.]

2. The official age for brucellosis official calfhood vaccination (OCV) is four through twelve (4–12) months.

3. All test-eligible animals at a livestock market must be identified to the herd of origin with a state-approved backtag.

4. Brucellosis exposed animals or test-eligible animals of unknown status moving illegally within Missouri must be—

A. Returned to the state of origin;

B. Quarantined to farm of origin or farm of destination for a thirty (30)-, one hundred twenty (120)- and three hundred (300)-day negative retest. If the facts so warrant, earlier release may be authorized by the state veterinarian; or

C. Tagged and "S"-branded on the left tailhead and shipped direct to slaughter or to a quarantined feedlot accompanied by a VS 1-27 shipping permit. No indemnity will be paid on negative exposed animals unless in accordance with a previously approved depopulation program.

[(D)] (B) Tuberculosis. No test required for movement of cattle from herds not under quarantine for tuberculosis.

AUTHORITY: *section 267.645, RSMo 2000. Original rule filed April 18, 1975, effective April 28, 1975. For intervening history, please consult the Code of State Regulations. Emergency amendment filed*

March 5, 2004, effective March 15, 2004, expires Aug. 27, 2004. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

Title 2—DEPARTMENT OF AGRICULTURE
Division 30—Animal Health
Chapter 2—Health Requirements for Movement of
Livestock, Poultry and Exotic Animals

EMERGENCY AMENDMENT

2 CSR 30-2.040 Animal Health Requirements for Exhibition.
The director is amending sections (1), (2) and (3).

PURPOSE: *This emergency amendment addresses the granting of brucellosis-free status to Missouri as it impacts the cattle producers, dealers, and livestock markets. No provision has been made in previous or existing regulations for the achievement of this status and the subsequent modification of testing requirements for Missouri producers.*

EMERGENCY STATEMENT: *This emergency amendment sets up immediate regulatory relief for the cattle industries within Missouri as brucellosis-free status is granted by USDA-APHIS. Current regulations impose a significant financial burden on the Missouri cattle industries as required of brucellosis Class A state. This new amendment will reduce the required testing and health certification of animals for intrastate commerce, and the new brucellosis-free status will open up interstate commerce as never before during the Brucellosis Control and Eradication Program. Livestock markets will no longer provide at-market test screening, but will instead collect blood samples to be sent directly to the Federal/State Cooperative Brucellosis Laboratory. This will enhance processing time of cattle coming into the market, making the system more efficient and more cost-effective. In addition, exhibition requirements within Missouri will allow resident producers to transport and exhibit cattle without health certification or brucellosis testing.*

The scope of this rule is limited to the circumstances which created this emergency and complies with the protection extended in the Missouri and United States Constitutions. In developing this rule the agency has encouraged discussion with interested parties and provided them the opportunity to offer their comments. The agency believes this emergency amendment to be fair to all persons and parties under the circumstances. This emergency amendment was filed March 5, 2004, effective March 15, 2004 and expires August 27, 2004.

(1) Health Certificates.

(A) The term health certificate or Certificate of Veterinary Inspection means a legible record made on an official form of the state of origin, issued by an accredited veterinarian, which shows that the animal(s) listed meets the testing, vaccination, treatment and health requirements of the state of destination. *[Unless stated otherwise in the following rules, a health certificate or Certificate of Veterinary Inspection must accompany all animals to be exhibited and be available on request by animal health officials.]*

(2) Exhibition Requirements for Cattle in Missouri.

(A) Intrastate (cattle in Missouri moving for exhibition only in Missouri).

1. *[A health certificate is required (except steers.) Brucellosis. No test or vaccination is required.]*

2. *[Brucellosis. All breeding animals eighteen (18) months of age and over must be tested negative within ninety (90) days prior to exhibition except—*

A. Animals from a certified brucellosis-free herd. The certified herd number and date of the last test must be shown on the health certificate; and

B. Officially calfhood-brucellosis-vaccinated heifers of beef breeds under twenty-four (24) months of age and dairy breeds under twenty (20) months of age, unless these heifers are parturient (springer) or post-parturient in which case they shall be tested.]

3.2. Tuberculosis. Tuberculosis tests are not required for Missouri cattle.

4.3. Scabies (mange). Cattle originating in scabies-quarantined areas or herds are not eligible to exhibit.

(B) Interstate (cattle from another state moving into Missouri for the purpose of exhibition only).

1. A health certificate is required.

2. Brucellosis.

A. Cattle from brucellosis-free states.

(I) All cattle may enter without a brucellosis test.

(II) Steers. No tests required but the steer(s) must be listed and identified on a health certificate.

B. Cattle from brucellosis Class A states. All breeding cattle eighteen (18) months of age and over must be tested and negative within ninety (90) days prior to entry except—

(I) Cattle from a certified brucellosis-free herd. The certified herd number and the date of the last herd test must be shown on the health certificate; **and**

[(III) Officially calfhood-brucellosis-vaccinated heifers of beef breeds under twenty-four (24) months of age and of dairy breeds under twenty (20) months of age unless parturient (springer) or post-parturient in which case they shall be tested regardless of vaccination status or age; and]

[(III)](II) Steers. No test required but the steer(s) must be listed and identified on a health certificate.

C. Cattle from brucellosis Class B and C states **or areas** are not eligible to exhibit in Missouri.

3. Tuberculosis. Tuberculosis tests are not required on cattle entering and moving in Missouri for exhibition only./; **except—**

A. Cattle entering Missouri from modified accredited states or areas are required to have a negative test within sixty (60) days prior to entry.

B. An entry permit is required.

4. Scabies (mange). Cattle originating in scabies-quarantined areas or herds are not eligible to exhibit.

(3) Exhibition Requirements for Swine in Missouri.

(A) Intrastate and interstate swine must be individually identified by eartag, ear notch, tattoo or other approved device on the health certificate.

1. Brucellosis. *[All breeding swine six (6) months of age and over will be tested negative within sixty (60) days prior to exhibition except breeding swine from a validated brucellosis-free herd. The validated herd number and date of last validating test must be recorded on the health certificate.]*

A. Breeding swine originating from a brucellosis-free state may exhibit without a brucellosis test.

B. Breeding swine originating from a stage II state must be tested negative within sixty (60) days prior to exhibition except breeding swine from a validated brucellosis-free herd. The validated herd number and date of the last validating test must be recorded on the health certificate.

2. Pseudorabies (Aujeszky's Disease). All swine must be tested negative within sixty (60) days prior to exhibition except—

A. Swine from a qualified pseudorabies-free herd. The qualified herd number and date of the last qualifying test must be recorded on the health certificate;

B. Market class swine that are to be slaughtered at the end of the show. If the show or exhibit includes other classes of animals such as cattle, sheep or breeding swine, then the market swine must

be tested and negative to pseudorabies or originate from a qualified pseudorabies-free herd; and

C. Swine originating from a state classified as Stage V in the National Pseudorabies (PRV) Eradication Plan.

[3. All swine at weigh-ins for show competition must originate from a qualified negative pseudorabies herd or be tested within sixty (60) days prior to the weigh-in.]

AUTHORITY: section 267.645, RSMo 2000. Emergency rule filed June 28, 1977, effective July 8, 1977, expired Nov. 5, 1977. Original rule filed June 28, 1977, effective Oct. 13, 1977. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed March 5, 2004, effective March 15, 2004, expires Aug. 27, 2004. A proposed amendment covering this same material is published in this issue of the **Missouri Register**.

Title 2—DEPARTMENT OF AGRICULTURE

Division 30—Animal Health

Chapter 3—Brucellosis

EMERGENCY AMENDMENT

2 CSR 30-3.020 Brucellosis Quarantine Requirements on Cattle. The director is amending paragraph (1)(B)2.

PURPOSE: This emergency amendment addresses the granting of brucellosis-free status to Missouri as it impacts the cattle producers, dealers, and livestock markets. No provision has been made in previous or existing regulations for the achievement of this status and the subsequent modification of testing requirements for Missouri producers.

EMERGENCY STATEMENT: This emergency amendment sets up immediate regulatory relief for the cattle industries within Missouri as brucellosis-free status is granted by USDA-APHIS. Current regulations impose a significant financial burden on the Missouri cattle industries as required of brucellosis Class A state. This new amendment will reduce the required testing and health certification of animals for intrastate commerce, and the new brucellosis-free status will open up interstate commerce as never before during the Brucellosis Control and Eradication Program. Livestock markets will no longer provide at-market test screening, but will instead collect blood samples to be sent directly to the Federal/State Cooperative Brucellosis Laboratory. This will enhance processing time of cattle coming into the market, making the system more efficient and more cost-effective. In addition, exhibition requirements within Missouri will allow resident producers to transport and exhibit cattle without health certification or brucellosis testing.

The scope of this rule is limited to the circumstances which created this emergency and complies with the protection extended in the **Missouri and United States Constitutions**. In developing this rule the agency has encouraged discussion with interested parties and provided them the opportunity to offer their comments. The agency believes this emergency amendment to be fair to all persons and parties under the circumstances. This emergency amendment was filed March 5, 2004, effective March 15, 2004 and expires August 27, 2004.

(1) Definitions.

(B) Whole Herd Vaccination. Vaccination of all female cattle except spayed heifers over eight (8) months of age with a brucellosis vaccine approved by the state veterinarian. Such cattle shall be identified as official adult vaccinates by an adult vaccination tag and tattoo.

1. Heifer calves eight (8) months of age and under that are not spayed, are to be vaccinated with a brucellosis vaccine approved by the state veterinarian.

2. The testing of the herd *[shall]* may resume within *[one hundred twenty (120)]* **thirty (30)** days after vaccine is administered. The test schedule shall be consistent with the schedule used in non-vaccinated herds.

AUTHORITY: section 267.645, RSMo [1994] 2000. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed March 5, 2004, effective March 15, 2004, expires Aug. 27, 2004. A proposed amendment covering this same material is published in this issue of the **Missouri Register**.

Title 2—DEPARTMENT OF AGRICULTURE

Division 30—Animal Health

Chapter 6—Livestock Markets

EMERGENCY AMENDMENT

2 CSR 30-6.020 Duties and Facilities of the Market/Sale Veterinarian. The department is amending sections (2) and (3), adding new sections (6) and (9) and renumbering sections as needed.

PURPOSE: This emergency amendment addresses the granting of brucellosis-free status to Missouri as it impacts the cattle producers, dealers, and livestock markets. No provision has been made in previous or existing regulations for the achievement of this status and the subsequent modification of testing requirements for Missouri producers.

EMERGENCY STATEMENT: This emergency amendment sets up immediate regulatory relief for the cattle industries within Missouri as brucellosis-free status is granted by USDA-APHIS. Current regulations impose a significant financial burden on the Missouri cattle industries as required of brucellosis Class A state. This new amendment will reduce the required testing and health certification of animals for intrastate commerce, and the new brucellosis-free status will open up interstate commerce as never before during the Brucellosis Control and Eradication Program. Livestock markets will no longer provide at-market test screening, but will instead collect blood samples to be sent directly to the Federal/State Cooperative Brucellosis Laboratory. This will enhance processing time of cattle coming into the market, making the system more efficient and more cost-effective. In addition, exhibition requirements within Missouri will allow resident producers to transport and exhibit cattle without health certification or brucellosis testing.

The scope of this rule is limited to the circumstances which created this emergency and complies with the protection extended in the **Missouri and United States Constitutions**. In developing this rule the agency has encouraged discussion with interested parties and provided them the opportunity to offer their comments. The agency believes this emergency amendment to be fair to all persons and parties under the circumstances. This emergency amendment was filed March 5, 2004, effective March 15, 2004 and expires August 27, 2004.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material, which is incorporated by reference as a portion of this rule, would be unduly cumbersome or expensive. Therefore, the material, which is so incorporated, is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of The Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text for the rule is printed here. This note refers only to the incorporated by reference material. The publication for Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999, can be accessed at

www.aphis.usda.gov/vs/disease_eradication.htm and *Brucellosis in Cervidae: Uniform Methods and Rules, Effective September 30, 1998*, can be accessed at the USDA government website at www.aphis.usda.gov/oa/pubs/umr.html. The publication for *Scrapie Eradication Uniform Methods and Rules Effective October 1, 2003*, can be accessed at www.aphis.usda.gov/oa/pubs/umr.html.

(2) Duties and Responsibilities of the Market/Sale Veterinarian. The market/sale veterinarian shall—

(A) Complete training successfully and be qualified to run the Brucella Buffered Antigen (B.B.A.) Card Test *[and Concentration Immunoassay Technology (CITE) Test]*. Any veterinarian assistant or animal health technician who performs any testing at a livestock market/sale under the supervision of the market/sale veterinarian must also successfully complete training and be qualified to run the B.B.A. Card Test *[and CITE Test]*;

(C) *[Blood test all test-eligible animals consigned to the market/sale]* Collect blood samples from all test-eligible animals consigned to the market/sale and submit those samples to the Cooperative State and Federal Veterinary Diagnostic Laboratory in Jefferson City for testing;

(3) Required *[Vaccination and]* Testing of Bovine.

[(B) Official Brucellosis Vaccination.]

1. All heifers four through twelve (4–12) months of age consigned to the market/sale from other than brucellosis Class Free or brucellosis Class A states shall be officially calfhood vaccinated (OCV) against brucellosis before release from the market/sale. The director of the Missouri Department of Agriculture may reinstate mandatory brucellosis calfhood vaccination at his/her discretion, or shall reinstate mandatory brucellosis calfhood vaccination if the number of brucellosis-affected quarantined herds is greater than forty (40) for a period of longer than four (4) consecutive months.

2. All heifers imported from other than brucellosis Class Free or brucellosis Class A states consigned to the market/sale that are twelve (12) months of age and over that are not OCV shall be either—

A. Spayed; or

B. “S”-branded and restricted to sell to slaughter or to an approved quarantined feedlot.

3. Nonvaccinated finished-fed heifers may move through cattle market/sale channels directly to slaughter without being “S”-branded.]

[(C)](B) Testing of Bovine for Brucellosis.

1. The market/sale veterinarian must *[test]* draw blood on all test-eligible animals (bulls, heifers and cows eighteen (18) months of age and over) for brucellosis and submit those samples to the Cooperative State and Federal Veterinary Diagnostic Laboratory in Jefferson City for testing. This includes animals consigned to slaughter and feedlots as well as those that might return to farms as breeding stock. *[All OCV dairy females under twenty (20) months of age and beef females under twenty-four (24) months of age are exempt from test if not parturient or post-parturient].* An *[second]* exception may occur at markets/sales with enough volume of test-eligible slaughter cattle that have acquired an agreement with the state allowing release of untested slaughter cattle in a sealed truck. The market/sale veterinarian will supervise persons appointed to apply official United States Department of Agriculture (USDA) seals to sealed trucks if the licensee has an agreement with the state to do so.

2. A market/sale veterinarian may recognize a brucellosis test performed at a Missouri market/sale as an official and valid test for five (5) days if proper health certificates accompany the animal(s). An official bangle tag may serve as a health certificate for intrastate movement, provided the following information is shown on the tag:

- A. Date of test;
- B. Complete official eartag number;
- C. Age of the animal;
- D. State code letters of the testing veterinarian; and
- E. If color-coded bangle tags are used to indicate stage of pregnancy, they shall be applied as follows:
 - (I) Blue—first trimester—one through three (1–3) months pregnant;
 - (II) Red—second trimester—four through six (4–6) months pregnant;
 - (III) Green—third trimester—seven through nine (7–9) months pregnant;
 - (IV) Yellow—open—not pregnant; and
 - (V) White—not examined for pregnancy status.

3. All out-of-state test-eligible cattle must be retested when presented to a Missouri market/sale. The market/sale veterinarian shall accurately complete form MODAV-20 upon release of any test-eligible cattle originating from other than brucellosis Class Free or brucellosis Class A states.

A. The intrastate movement permit number shall be the MODAV-20 certificate number preceded by the letter code of the issuing veterinarian.

B. The proper distribution of the form MODAV-20 certificate is as follows:

(I) The yellow copy shall be issued to the purchaser or his/her agent prior to release of the animal(s) from the livestock market/sale;

(II) The white copy shall be mailed to the Missouri Department of Agriculture; and

(III) The green copy shall be retained by the issuing veterinarian.

4. Proper procedure for determining the age of test-eligible cattle is—

A. Eighteen (18) months—absence of the central deciduous (baby) incisors;

B. Two (2) years—the presence of the first pair of fully erupted permanent incisor teeth;

C. Two and one-half (2 1/2) years—the appearance of the second pair of permanent incisor teeth;

D. Eruption, spread and wear of incisor teeth may be used to determine age; and

E. The age of the animal will be shown on the official bangle tag or displayed on the animal in a manner easily visible to the buyer.

[5. A positive reaction to the standard card test shall make that animal eligible for further testing on the brucellosis CITE Test, or any other test approved by the USDA and the state veterinarian. The results of the CITE Test shall be recorded on the VS 4-54 market/sale test record as positive or negative.]

A. A positive CITE Test result occurs when the sample test spot develops a color equal to or greater than the intensity of the low calibration spot.

B. A negative CITE Test result occurs when the sample spot develops no color or develops a color of less intensity than the low calibration spot.]

(6) Required Testing and Handling of Sheep and Goats.

(A) Veterinary inspection is required on all sheep and goats prior to sale.

(B) Sheep and goats are required to have permanent official identification to be in compliance with the *Scrapie Eradication Uniform Methods and Rules, Effective October 1, 2003*, which is hereby incorporated by reference and made a part of this rule.

1. All breeding sheep regardless of age.

2. All sheep over eighteen (18) months of age.

3. Breeding goats, except slaughter goats.

(C) Eligible sheep and goats that come into the market without official identification must have official identification applied at

the market prior to commingling with other animals, and prior to sale.

(D) Any official identification that is applied by the market veterinarian or market personnel must maintain the following records:

1. The date tagged.
2. The number of sheep and the number of goats identified.
3. The serial numbers applied.
4. The name and address of the owner of the flock of origin.
5. If the person who currently owns the animals is different from the owner of the flock of origin or birth, the current owner's name and address.
6. If the owner of the flock of birth is different from the owner of the flock of origin, and if the animals were born after January 1, 2002, the name and address of the owner of the flock of birth, if known.
7. All records of official identification must be maintained for five (5) years.

[(6)](7) Ratites (Including, but not limited to, Ostrich and Emu). All ratites must be individually identified by a means approved by the Missouri state veterinarian on a certificate of veterinary inspection. In addition, ratites imported into Missouri presented for sale at a livestock market/sale must obtain an entry permit.

[(7)](8) Miscellaneous and Exotic Animals. All exotic animals presented for exchange, barter, lease or sale at a licensed livestock market/sale must be accompanied by an official Certificate of Veterinary Inspection showing an individual listing of the common and scientific name(s) of the animal(s) and appropriate descriptions of animal(s) such as sex, age, weight, coloration and the permanent tag number, brand or tattoo identification.

(A) Exotic bovids eight (8) months of age and over must have a negative brucellosis test and a negative tuberculosis test within thirty (30) days prior to arrival at the market/sale. Exotic bovids include *Bos gaurus* (Indian bison, Gaur) *Bos javanicus* (Banteng), *Bos sauveli* (Kouprey), *Bos grunniens* (domesticated yak), *Bubalus bubalis* (water buffalo), *Bubalus mindorensis* (Tamarau), *Bubalus quarlesi* (Mountain Anoa), *Bubalus depressicornis* (Lowland Anoa) and *Syncerus caffer* (buffalo group).

(B) Exotic cattle must meet the same brucellosis requirements as domestic cattle. These animals eight (8) months of age and over must be tested for tuberculosis within thirty (30) days prior to arrival at the market/sale.

(C) Camels, llamas, alpaca and others of that group must be officially identified by tattoo, microchip, eartag or other approved device and be listed individually on a Certificate of Veterinary Inspection.

(D) Captive cervids from out-of-state that arrive at a market/sale in Missouri must have an entry permit issued by the state veterinarian's office and a Certificate of Veterinary Inspection. Captive cervids from out-of-state that arrive at a market/sale must be in compliance with the guidelines as incorporated by reference to the *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999* and *Brucellosis in Cervidae: Uniform Methods and Rules, Effective September 30, 1998*. Movement of Missouri origin captive cervids must be in compliance with Missouri's intrastate movement regulations.

1. All sexually intact animals six (6) months of age or older, not under quarantine and not affected with brucellosis, must test negative for brucellosis within thirty (30) days prior to arrival at the market/sale, except:

A. Brucellosis-free herd—captive cervids originating from certified brucellosis-free herds may be sold through a market/sale on the current herd number and test date;

B. Brucellosis-monitored herd—all sexually intact animals six (6) months of age or older must test negative for brucellosis within ninety (90) days prior to arrival at the market/sale.

2. Captive cervids not known to be affected with or exposed to tuberculosis, and not in a status herd as defined in the *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999*, must have two (2) negative tuberculosis tests, not less than ninety (90) days apart, using the single cervical method. The second test must be within ninety (90) days prior to arrival at the market/sale.

3. Movement from status herds.

A. Accredited herd—captive cervids originating from accredited tuberculosis-free cervid herd as defined by the *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999*, may be sold through a market/sale on the current herd number and test date.

B. Qualified herd—captive cervids originating from a qualified herd as defined by the *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999*, must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days prior to arrival at the market/sale.

C. Monitored herd—captive cervids originating from a monitored herd as defined by the *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999*, must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days prior to arrival at the market/sale.

D. Captive cervids less than twelve (12) months of age that originate from and were born in qualified or monitored herds may be sold through a market/sale without further tuberculosis testing, provided that they are accompanied by a certificate stating that such captive cervids originated from such herds and have not been exposed to captive cervids from a lower status herd.

4. Captive cervids from an area that has been reported as a chronic wasting disease (CWD) endemic area or any cervid that has been in an endemic area in the last five (5) years will not be allowed to move through a Missouri livestock market/sale.

5. Elk, elk-hybrids, white-tailed deer and mule deer from all states must have participated in a surveillance program for at least three (3) years prior to moving through a Missouri livestock market/sale. Other captive cervids must have participated in a surveillance program recognized by the state of origin prior to moving through a Missouri livestock market/sale.

(E) Exotic goats, sheep and antelope. No tests are required on these animals.

(F) Exotic equine, donkeys, asses, burros and zebras must meet domestic equine requirements.

(G) Feral swine, javalena, and peccaries must be in compliance with domestic swine requirements.

(H) Elephants (Asiatic, African) must be tested negative for tuberculosis within one (1) year prior to exhibition.

(I) Importation of skunks and raccoons into Missouri is prohibited by the *Missouri Wildlife Code* (3 CSR 10-9).

(9) Poultry.

(A) Out-of-state live poultry (except those consigned directly to slaughter) shall be accompanied by an official Certificate of Veterinary Inspection or a VS Form 9-3 (see 2 CSR 30-2.040). If a VS Form 9-3 is used, a signed and dated owner/shipper statement must be included stating that to his/her best knowledge, the birds are healthy. Poultry known to be infected with pullorum or typhoid that are consigned directly to slaughter must be identified as such by the consignor.

(B) Out-of-state live poultry entering Missouri must be tested negative for pullorum-typhoid within the past ninety (90) days or originate from a flock approved by the National Poultry Improvement Plan (NPIP) or an equivalent program which has been tested within the past twelve (12) months with no change of ownership.

(C) All hatching eggs must be accompanied by an official Certificate of Veterinary Inspection certifying the eggs to be from pullorum-free flocks or by a VS Form 9-3.

(D) Out-of-state poultry and hatching eggs moving through a Missouri livestock market/sale require an entry permit prior to shipment. Annual entry permits shall be issued by the department to participants in the NPIP or an equivalent program. Producers not approved by NPIP or an equivalent program must request a permit with each shipment.

*AUTHORITY: section 277.160, RSMo 2000. Original rule filed June 15, 1990, effective Dec. 31, 1990. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed March 5, 2004, effective March 15, 2004, expires Aug. 27, 2004. A proposed amendment covering this same material is published in this issue of the **Missouri Register**.*

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbolology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted printed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety (90)-day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and Division of Personnel
Chapter 4—Appeals, Investigations, Hearings and Grievances

PROPOSED AMENDMENT

1 CSR 20-4.010 Appeals. The Personnel Advisory Board is amending subsection (3)(A) and adding section (4).

PURPOSE: This amendment establishes procedures for filing documents and when they are deemed filed as well as providing more detail on fax filing, how service of documents other than the original appeal may be done, and the consequences of not providing the board with a party's current address and telephone number. This amendment also establishes procedures which will allow parties to utilize mediation in an effort to resolve a disciplinary appeal.

(3) Appeals Must be Submitted and Hearings Conducted Following the Procedures and Guides Provided in this Rule.

(A) Appeal submission and preparation for hearing are governed by the following provisions:

1. Appeals shall be written. The appeal may be filed by *[FAX]* fax, by mail or by other delivery to the board's office. The written appeal must provide substantially the following information: appellant's name; appointing authority and agency; the type of disciplinary action appealed; the effective date of the disciplinary action; the appellant's reason for appealing the disciplinary action; the appellant's response to the reasons given by the appointing authority; names of witnesses to be subpoenaed if a hearing is granted; a detailed description of any books, papers or records to be subpoenaed, along with their location, and a statement of the reasons that the items are needed for the hearing; the name, address, telephone number and signature of the appellant's attorney, if any; the appellant's signed acknowledgement and certification of truth for the information supplied in the written appeal;

2. The appellant may file the appeal on the form for appeal prescribed by the board. The information required for completion of that form shall be deemed sufficient to satisfy the requirement for a written appeal. The board will provide to the appellant or to the appointing authority, on request, a copy of the current form for appeal. The appointing authority shall deliver a copy of the form to an employee receiving any appealable disciplinary action. The completed form or other written appeal must be received at the office of the board within thirty (30) days after the effective date of the disciplinary action appealed. A copy of the appellant's contentions set out in the appeal will be furnished to the appointing authority;

3. A party may file a document by—

A. Registered or certified mail. A document filed by registered or certified mail is deemed filed on the date shown on the United States Post Office records;

B. Electronic facsimile transmission (fax). A document filed by fax is deemed filed at the time the board receives a fax of the complete document. If a document arrives by fax after 5:00 p.m. and before 12:00 midnight or on a Saturday, Sunday or legal holiday, it is filed on the board's next business day, unless the board orders otherwise;

(I) The time controlling when a fax arrives at the board's office is the board's fax machine's journal;

(II) The person fax filing a document bears the risk of loss in transmission, nonreceipt or illegibility. If the document is not received or is materially illegible, the document is deemed not filed and totally null and void for all purposes;

(III) If the original document is not received by the board within four (4) business days following the fax filing, the document is deemed not filed and totally null and void for all purposes;

(IV) Any party or attorney who lists a fax number on a letterhead or pleading in the case file or in a telephone or professional directory or otherwise shall be deemed to have consented to receive service of documents by fax from the board or any other party or attorney; or

C. Any other method. A document filed by any method other than registered mail, certified mail or fax is deemed filed on the date the board receives the document in its office;

4. A party filing by fax shall—

A. Notify the board in advance, if possible, of its intention to file the document by fax;

B. Fax the document to the board's dedicated fax number;

C. Fax the document, if possible, to all other parties having electronic facsimile equipment. If unable to fax, a party shall notify all other parties of its intention to file the document by fax. The notice need not be in writing. A good faith attempt at compliance with this notice requirement shall satisfy the

requirements of this subparagraph. This subparagraph does not apply to fax filing of the original appeal;

D. Send the original signed document to the board;

E. Certify in the documents—

(I) The method of notice used to fulfill the requirements of subparagraph (3)(A)4.C. of this rule; and

(II) Compliance with the requirements of subparagraph (3)(A)4.D. of this rule; and

F. Send a copy of the document to all other parties except when filing the original appeal;

[3./5. Appellants may represent themselves and handle their own cases but shall have the right to be represented by duly licensed attorneys. A party to an appeal cannot be represented by anyone other than a duly licensed attorney except that the appointing authority may appear by an employee in the agency. If either party intends to employ and be represented by an attorney, that party promptly shall notify the Personnel Advisory Board of the name and address of his/her attorney;

[4./6. If either party to an appeal desires the issuance of a subpoena for any witness or records at any hearing, that party must apply for it sufficiently in advance of the hearing that the subpoena may be delivered to the requesting party by mail or by *[FAX]* fax at least one (1) day before the hearing. The requesting party shall provide the name and address of any witness subpoenaed, a detailed description of any records to be subpoenaed and a statement of what is intended to be proved by the records. The Personnel Advisory Board issues the subpoena by request, but the service of the subpoena rests in the hands of the party requesting it. Service of the subpoena is to be effected in accordance with section 536.077, RSMo;

[5./7. Upon the acceptance of an appeal, the appellant and appointing authority or their representatives may meet with the Personnel Advisory Board, at a time and place set by the board for a prehearing conference to determine the facts at issue. At the prehearing conference both parties may stipulate on mutually agreed matters relevant to the disciplinary action or the appeal may be resolved by agreement of the parties. If, during the prehearing conference, the case is not resolved and the appeal goes forward to a hearing before the Personnel Advisory Board, the board may confine the hearing to the law and facts at issue as stipulated by mutual agreement of the parties to the appeal. **All parties are required to provide the board with a current address and telephone number. If the appellant fails to provide the board with a current address and telephone number and cannot be reached to schedule a prehearing conference, or does not participate in the prehearing conference after receiving written notice of the date, time and location of the prehearing conference, it shall be deemed that the appellant no longer wishes to proceed with the appeal and is withdrawing the appeal; [and]**

[6./8. All motions or other pleadings by the parties shall be submitted in writing with a copy served or mailed to the opposing party. Parties to an appeal may amend their pleadings as a matter of course at any time before a responsive pleading is filed and served or if the pleading is one to which no responsive pleading is required and the action has not been set for hearing, the party may so amend it at any time within thirty (30) days after it is filed. Otherwise, a party may amend a pleading only by leave of the Personnel Advisory Board or by written consent of the adverse party; and leave shall be given freely when justice so requires. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within ten (10) days after service of the amended pleading, whichever period may be the longer, unless the Personnel Advisory Board otherwise orders./.; and

9. Service of filings other than the original appeal:

A. Unless otherwise provided by these rules or by other law, any party to a proceeding before the board or any person who seeks to become a party shall serve upon all attorneys of record and unrepresented parties a copy of any document or item the party files;

B. Methods of service.

(I) A person may service a document on an attorney by:

(a) Delivering it to the attorney;

(b) Leaving it at the attorney's office with a secretary, clerk or attorney associated with or employed by the attorney served;

(c) Mailing it to the attorney's last known address; or

(d) Facsimile transmitting (faxing) it to the attorney's last known fax number;

C. Any document or item filed shall contain or be accompanied by a certification of how and when the filing party has met the provisions of subparagraph (3)(A)9.A. of this rule; and

D. The requirements of this paragraph shall not apply to an original appeal.

(4) Mediation.

(A) Upon the filing of a request for mediation by both parties, or upon a request for mediation by both parties made at the prehearing telephone conference that establishes the hearing date of a disciplinary appeal, mediation services may be provided by a hearings officer, a board member, or a neutral third party for the purpose of attempting a resolution of the appeal.

(B) The Personnel Advisory Board may order that mediation proceed in a disciplinary case before any further proceeding in such case.

(C) A written application for mediation services should include the case number, the name of each party and a brief explanation of the case.

(D) If the mediator is also a hearings officer or a board member, that hearings officer or board member shall be disqualified from conducting an evidentiary hearing relating to that particular case and shall not make any communication regarding the mediation discussions in the case to any board member or the hearings officer appointed to preside in the case. Further, such a board member shall not vote or otherwise participate in the decision on such a disciplinary appeal.

(E) If necessary, the hearings officer presiding over the case may stay the case pending mediation. In no event, however, shall mediation take over two (2) months. If a case cannot be resolved in that amount of time, it shall proceed to hearing. The parties, however, are always free to settle an appeal, and the appellant is always free to withdraw the appeal even should mediation efforts fail to resolve an appeal.

(F) Failure to appear and participate in good faith in mediation shall be grounds for sanctions including dismissal or default of the noncompliant party.

(G) Should there be any cost charged by a third party mediator, the cost shall be divided evenly between the parties unless the Personnel Advisory Board orders otherwise.

AUTHORITY: sections 36.060, RSMo [Supp. 1993] and 36.070, RSMo [1986] 2000. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the Code of State Regulations. Amended: Filed March 15, 2004.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions up to six hundred forty dollars (\$640) per mediation for in-house legal representation at an assumed rate of thirty-five dollars (\$35) per hour for a four (4)-hour mediation (on average) and a maximum of one hundred twenty-five dollars (\$125) per hour for the cost of a qualified mediator.

PRIVATE COST: This proposed amendment will cost private entities up to eight hundred dollars (\$800) per mediation assuming legal representation at seventy-five dollars (\$75) per hour for a four (4)-hour mediation (on average) and a maximum of one hundred twenty-five dollars (\$125) per hour for the cost of a qualified mediator.

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Administration, Division of Personnel, Alma G. McKinney, Director, PO Box 388, Jefferson City, MO 65102. To be considered, comments must be received with thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for 1:00 p.m., June 8, 2004 in Room 500 of the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, Missouri.*

**FISCAL NOTE
PUBLIC COST****I. RULE NUMBER**

Title: 1 – Office of Administration
Division: 20 – Personnel Advisory Board and Division of Personnel
Chapter: 4 – Appeals, Investigations, Hearings and Grievances

Rule Number and Name:	1 CSR 20-4.010 Appeals
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
All merit agencies and any non-merit agencies that have elected to use the Board's appeal procedures	Up to \$640 per mediation

III. WORKSHEET

This fiscal note is summarizing the fiscal impact of Section (4) Mediation. The remainder of the proposed amendment will not have a fiscal impact.

The Personnel Advisory Board anticipates that the majority of mediations will be done with little if any cost. This is because the Dispute Resolution Center at the University of Missouri's Law School has agreed to conduct up to ten (10) mediations per semester at no cost. However, the parties will have to agree to go to Columbia for the mediation.

A small minority of the litigants in pending Personnel Advisory Board appeals may elect to hire their own mediator. The cost of a mediator ranges from approximately \$75 per hour to \$250 per hour. The average mediation lasts two (2) to four (4) hours. This is roughly the same as what private attorneys charge to represent clients in any type of legal matter. Preparation time for one mediation is estimated to be 0 to 4 hours. It is anticipated that each party will bear its own costs in the majority of mediations. Roughly 50% of the appellants in Personnel Advisory Board hearings never hire counsel.

Appointing Authorities are represented either by in-house counsel or an assistant attorney general. These attorneys are on salary, and the average hourly rate is estimated to be \$25 to \$35 an hour. These attorneys would have to prepare for and attend the mediation.

The Board also reserves the option of funding a mediator for the parties who cannot attend a mediation in Columbia, Missouri.

All of the above have been considered in arriving at an estimated average cost per mediation for the public sector, which is \$640 per mediation. This assumes in-house legal representation at an assumed rate of \$35 per hour for a four mediation (preparation and attendance) with a cost of \$125 per hour for the mediator.

IV. ASSUMPTIONS

Any other costs not identified in this fiscal note are unforeseeable.

FISCAL NOTE PRIVATE COST

I. RULE NUMBER

Title: 1 – Office of Administration
 Division: 20 – Personnel Advisory Board and Division of Personnel
 Chapter: 4 – Appeals, Investigations, Hearings and Grievances

Rule Number and Name:	1 CSR 20-4.010 Appeals
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Any litigant in a pending Personnel Advisory Board appeal who may elect to hire their own mediator	Appellants in Personnel Advisory Board appeals	Up to \$800 per mediation

III. WORKSHEET

This fiscal note is summarizing the fiscal impact of Section (4) Mediation. The remainder of the proposed amendment will not have a fiscal impact.

The Personnel Advisory Board anticipates that the majority of mediations will be done with little if any cost. This is because the Dispute Resolution Center at the University of Missouri's Law School has agreed to conduct up to ten (10) mediations per semester at no cost. However, the parties will have to agree to go to Columbia for the mediation.

A small minority of the litigants in pending Personnel Advisory Board appeals may elect to hire their own mediator. The cost of a mediator ranges from approximately \$75 per hour to \$250 per hour. The average mediation lasts two (2) to four (4) hours. This is roughly the same as what private attorneys charge to represent clients in any type of legal matter. Preparation time for the mediation is estimated at 0 to 4 hours per mediation. It is anticipated that each party will bear its own costs in the majority of mediations. Roughly 50% of the appellants in Personnel Advisory Board hearings never hire counsel.

The Board also reserves the option of funding a mediator for the parties who cannot attend a mediation in Columbia, Missouri.

All of the above have been considered in arriving at an estimated average cost per mediation for the private sector, which is \$800 per mediation. This assumes \$75 per hour for the cost of an attorney for a four hour mediation (preparation and attendance) and \$125 per hour for the mediator.

IV. ASSUMPTIONS

Any other costs not identified in this fiscal note are unforeseeable.

Title 2—DEPARTMENT OF AGRICULTURE
Division 30—Animal Health
Chapter 1—Organization and Description

PROPOSED AMENDMENT

2 CSR 30-1.010 General Organization. The director is amending section (3).

PURPOSE: This proposed amendment reflects organizational changes to the Department of Agriculture.

(3) [Three (3)] **Two (2)** laboratories are maintained by the state veterinarian's office and are located at the following addresses: Cooperative State & Federal Veterinary Diagnostic Laboratory, 216 El Mercado Plaza, Jefferson City, MO 65109; and Veterinary Diagnostic Laboratory, 701 North Miller Avenue, Post Office Box 2510, Springfield, MO 65802-2510; and Northwest Missouri Veterinary Diagnostic Laboratory, 308 West Grand, Cameron, MO 64429].

AUTHORITY: section 536.023, RSMo [Supp. 1998] 2000. Original rule filed April 9, 1976, effective July 15, 1976. Amended: Filed Dec. 13, 1989, effective April 27, 1990. Amended: Filed Jan. 4, 1999, effective July 30, 1999. Amended: Filed March 5, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Division of Animal Health, Taylor H. Woods, D.V.M., State Veterinarian, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing scheduled.

Title 2—DEPARTMENT OF AGRICULTURE
Division 30—Animal Health
Chapter 1—Organization and Description

PROPOSED AMENDMENT

2 CSR 30-1.020 Laboratory Services and Fees. The director is amending subsections (1)(A) and (1)(C).

PURPOSE: This proposed amendment reflects organizational changes within the Department of Agriculture.

(1) The Animal Health Diagnostic Laboratories are operated by and under the direction of the state veterinarian. The mailing addresses of the Animal Health Laboratories are as follows:

(A) Cooperative State & Federal Veterinary Diagnostic Laboratory, 216 El Mercado Plaza, Jefferson City, MO 65109 [(this laboratory performs primarily cooperative state and federal program tests)]; and

(B) Veterinary Diagnostic Laboratory, 701 North Miller Avenue, P.O. Box 2510, Springfield, MO 65802-2510; and].

[(C) Northwest Missouri Veterinary Diagnostic Laboratory, 307 West Grand, P.O. Box 377, Cameron, MO 64429.]

AUTHORITY: section 267.122, RSMo [Supp. 1998] 2000. Original rule filed July 15, 1993, effective Jan. 31, 1994. Amended:

Filed Jan. 4, 1999, effective July 30, 1999. Amended: Filed March 5, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Division of Animal Health, Taylor H. Woods, D.V.M., State Veterinarian, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing scheduled.

Title 2—DEPARTMENT OF AGRICULTURE
Division 30—Animal Health
Chapter 2—Health Requirements for
Movement of Livestock, Poultry and Exotic Animals

PROPOSED AMENDMENT

2 CSR 30-2.020 Movement of Livestock, Poultry and Exotic Animals Within Missouri. The department is amending section (1).

PURPOSE: Changes to this section will reflect the Brucellosis-Free status granted to Missouri by USDA-APHIS, Veterinary Services.

(1) Cattle and Bison.

[(A) All test-eligible animals exchanged, bartered, leased or sold within Missouri must be accompanied by a Certificate of Veterinary Inspection except for animals consigned to a federal- or state-supervised market or slaughter establishment, if a waybill, bill of lading, backtag or owner/shipper statement accompanies the shipment showing origin and destination.

(B) A Certificate of Veterinary Inspection shall be void thirty (30) days after issue.]

[(C)](A) Brucellosis.

[1. Animals eighteen (18) months of age or over exchanged, bartered, leased or sold within Missouri must have a negative test for brucellosis within the preceding thirty (30) days, except—

A. Steers and spayed heifers;

B. Official calfhood-vaccinated (OCV) heifers of the beef breeds under twenty-four (24) months of age and dairy breeds under twenty (20) months of age if not parturient (springer) or post-parturient;

C. Animals from a certified brucellosis-free herd;]

[D.]1. Animals consigned from a farm to an approved market shall be tested prior to sale. Markets may apply to the state veterinarian for permission to backtag slaughter animals without testing if consigned directly to slaughter in a sealed vehicle[;].

[E. Animals consigned directly to a slaughter establishment; and

F. Finished-fed heifers under two (2) years of age.]

2. The official age for brucellosis official calfhood vaccination (OCV) is four through twelve (4-12) months.

3. All test-eligible animals at a livestock market must be identified to the herd of origin with a state-approved backtag.

4. Brucellosis exposed animals or test-eligible animals of unknown status moving illegally within Missouri must be—

A. Returned to the state of origin;

B. Quarantined to farm of origin or farm of destination for a thirty (30)-, one hundred twenty (120)- and three hundred (300)-day negative retest. If the facts so warrant, earlier release may be authorized by the state veterinarian; or

C. Tagged and "S"-branded on the left tailhead and shipped direct to slaughter or to a quarantined feedlot accompanied by a VS 1-27 shipping permit. No indemnity will be paid on negative exposed animals unless in accordance with a previously approved depopulation program.

[(D)](B) Tuberculosis. No test required for movement of cattle from herds not under quarantine for tuberculosis.

AUTHORITY: section 267.645, RSMo 2000. Original rule filed April 18, 1975, effective April 28, 1975. For intervening history, please consult the Code of State Regulations. Emergency amendment filed March 5, 2004, effective March 15, 2004, expires Aug. 27, 2004. Amended: Filed March 5, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivision more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Division of Animal Health, Taylor H. Woods, D.V.M., State Veterinarian, PO Box 630 Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing scheduled.

Title 2—DEPARTMENT OF AGRICULTURE
Division 30—Animal Health
Chapter 2—Health Requirements for
Movement of Livestock, Poultry and Exotic Animals

PROPOSED AMENDMENT

2 CSR 30-2.040 Animal Health Requirements for Exhibition.
The department is amending sections (1), (2) and (3).

PURPOSE: The proposed changes to the exhibition requirements reflects the granting of brucellosis-free status by USDA-APHIS to Missouri and the pseudorabies-free status that we hold.

(1) Health Certificates.

(A) The term health certificate or Certificate of Veterinary Inspection means a legible record made on an official form of the state of origin, issued by an accredited veterinarian, which shows that the animal(s) listed meets the testing, vaccination, treatment and health requirements of the state of destination. *[Unless stated otherwise in the following rules, a health certificate or Certificate of Veterinary Inspection must accompany all animals to be exhibited and be available on request by animal health officials.]*

(2) Exhibition Requirements for Cattle in Missouri.

(A) Intrastate (cattle in Missouri moving for exhibition only in Missouri).

[1. A health certificate is required (except steers).

2. Brucellosis. All breeding animals eighteen (18) months of age and over must be tested negative within ninety (90) days prior to exhibition except—

A. Animals from a certified brucellosis-free herd. The certified herd number and date of the last test must be shown on the health certificate; and

B. Officially calfhood-brucellosis-vaccinated heifers of beef breeds under twenty-four (24) months of age and dairy breeds under twenty (20) months of age, unless these heifers are parturient (springer) or post-parturient in which case they shall be tested.]

[3.] 1. Tuberculosis. Tuberculosis tests are not required for Missouri cattle.

[4.] 2. Scabies (mange). Cattle originating in scabies-quarantined areas or herds are not eligible to exhibit.

(B) Interstate (cattle from another state moving into Missouri for the purpose of exhibition only).

1. A health certificate is required.

2. Brucellosis.

A. Cattle from brucellosis-free states.

(I) All cattle may enter without a brucellosis test.

(II) Steers. No tests required but the steer(s) must be listed and identified on a health certificate.

B. Cattle from brucellosis Class A states. All breeding cattle eighteen (18) months of age and over must be tested and negative within ninety (90) days prior to entry except—

(I) Cattle from a certified brucellosis-free herd. The certified herd number and the date of the last herd test must be shown on the health certificate; and

[(III) Officially calfhood-brucellosis-vaccinated heifers of beef breeds under twenty-four (24) months of age and of dairy breeds under twenty (20) months of age unless parturient (springer) or post-parturient in which case they shall be tested regardless of vaccination status or age; and] [(III)](II) Steers. No tests required but the steer(s) must be listed and identified on a health certificate.

C. Cattle from brucellosis Class B and C states or areas are not eligible to exhibit in Missouri.

3. Tuberculosis. Tuberculosis tests are not required on cattle entering and moving in Missouri for exhibition only[.] except—

A. Cattle originating from a modified accredited state or area are required to have a negative test within sixty (60) days prior to entry; and

B. An entry permit.

4. Scabies (mange). Cattle originating in scabies-quarantined areas or herds are not eligible to exhibit.

(3) Exhibition Requirements for Swine in Missouri.

(A) Intrastate and interstate swine must be individually identified by eartag, ear notch, tattoo or other approved device on the health certificate.

1. Brucellosis. *[All breeding swine six (6) months of age and over will be tested negative within sixty (60) days prior to exhibition except breeding swine from a validated brucellosis-free herd. The validated herd number and date of last validating test must be recorded on the health certificate.]*

A. Breeding swine originating from brucellosis-free states may exhibit without a brucellosis test.

B. Breeding swine originating from brucellosis stage II states must be tested negative within sixty (60) days prior to exhibition except breeding swine from a validated brucellosis-free herd. The validated herd number and date of last validating test must be recorded on the health certificate.

2. Pseudorabies (Aujeszky's Disease). All swine must be tested negative within sixty (60) days prior to exhibition except—

A. Swine from a qualified pseudorabies-free herd. The qualified herd number and date of the last qualifying test must be recorded on the health certificate;

B. Market class swine that are to be slaughtered at the end of the show. If the show or exhibit includes other classes of animals such as cattle, sheep or breeding swine, then the market swine must be tested and negative to pseudorabies or originate from a qualified pseudorabies-free herd; and

C. Swine originating from a state classified as Stage V in the National Pseudorabies (PRV) Eradication Plan.

[3. All swine at weigh-ins for show competition must originate from a qualified negative pseudorabies herd or be tested within sixty (60) days prior to the weigh-in.]

AUTHORITY: section 267.645, RSMo 2000. Emergency rule filed June 28, 1977, effective July 8, 1977, expired Nov. 5, 1977. Original rule filed June 28, 1977, effective Oct. 13, 1977. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed March 5, 2004, effective March 15, 2004, expires Aug. 27, 2004. Amended: Filed March 5, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Division of Animal Health, Taylor H. Woods, D.V.M., State Veterinarian, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing scheduled.

Title 2—DEPARTMENT OF AGRICULTURE

Division 30—Animal Health

Chapter 3—Brucellosis

PROPOSED AMENDMENT

2 CSR 30-3.020 Brucellosis Quarantine Requirements on Cattle. The director is amending paragraph (1)(B)2.

PURPOSE: This proposed amendment addresses the granting of brucellosis-free status to Missouri as it impacts the cattle producers, dealers, and livestock markets. No provision has been made in previous or existing regulations for the achievement of this status and the subsequent modification of testing requirements for Missouri producers.

(1) Definitions.

(B) Whole Herd Vaccination. Vaccination of all female cattle except spayed heifers over eight (8) months of age with a brucellosis vaccine approved by the state veterinarian. Such cattle shall be identified as official adult vaccinates by an adult vaccination tag and tattoo.

1. Heifer calves eight (8) months of age and under that are not spayed, are to be vaccinated with a brucellosis vaccine approved by the state veterinarian.

2. The testing of the herd [shall] **may** resume within [one hundred twenty (120)] **thirty (30)** days after vaccine is administered. The test schedule shall be consistent with the schedule used in non-vaccinated herds.

AUTHORITY: section 267.645, RSMo [1994] 2000. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed March 5, 2004, effective March 15, 2004, expires Aug. 27, 2004. Amended: Filed March 5, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Division of Animal Health, Taylor H. Woods, D.V.M., State Veterinarian, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) day after publication of this notice in the *Missouri Register*. No public hearing scheduled.

Title 2—DEPARTMENT OF AGRICULTURE

Division 30—Animal Health

Chapter 6—Livestock Markets

PROPOSED AMENDMENT

2 CSR 30-6.020 Duties and Facilities of the Market/Sale Veterinarian. The department is amending sections (2) and (3), adding new sections (6) and (9) and renumbering sections as needed.

PURPOSE: The proposed amendment addresses the granting of brucellosis-free status to Missouri by USDA-APHIS and proposed changes to section (6) are designed to bring Missouri's scrapie requirements into compliance with revised federal regulations and to protect Missouri's livestock industry.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material, which is incorporated by reference as a portion of this rule, would be unduly cumbersome or expensive. Therefore, the material, which is so incorporated, is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of The Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text for the rule is printed here. This note refers only to the incorporated by reference material. The publication for *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999*, can be accessed at www.aphis.usda.gov/vs/disease_eradication.htm and *Brucellosis in Cervidae: Uniform Methods and Rules, Effective September 30, 1998*, can be accessed at the USDA government web-site at www.aphis.usda.gov/oa/pubs/umr.html. The publication for *Scrapie Eradication Uniform Methods and Rules Effective October 1, 2003* can be accessed at www.aphis.usda.gov/oa/pubs/umr.html.

(2) Duties and Responsibilities of the Market/Sale Veterinarian. The market/sale veterinarian shall—

(A) Complete training successfully and be qualified to run the Brucella Buffered Antigen (B.B.A.) Card Test [and Concentration Immunoassay Technology (CITE) Test]. Any veterinarian assistant or animal health technician who performs any testing at a livestock market/sale under the supervision of the market/sale veterinarian must also successfully complete training and be qualified to run the B.B.A. Card Test [and CITE Test];

(C) [Blood test all test-eligible animals consigned to the market/sale] Collect blood samples from all test-eligible animals consigned to the market/sale and submit those samples to the Cooperative State and Federal Veterinary Diagnostic Laboratory in Jefferson City for testing;

(3) Required [Vaccination and] Testing of Bovine.

[(B) Official Brucellosis Vaccination.

1. All heifers four through twelve (4–12) months of age consigned to the market/sale from other than brucellosis Class Free or brucellosis Class A states shall be officially

calfhood vaccinated (OCV) against brucellosis before release from the market/sale. The director of the Missouri Department of Agriculture may reinstate mandatory brucellosis calfhood vaccination at his/her discretion, or shall reinstate mandatory brucellosis calfhood vaccination if the number of brucellosis-affected quarantined herds is greater than forty (40) for a period of longer than four (4) consecutive months.

2. All heifers imported from other than brucellosis Class Free or brucellosis Class A states consigned to the market/sale that are twelve (12) months of age and over that are not OCV shall be either—

A. Spayed; or

B. "S"-branded and restricted to sell to slaughter or to an approved quarantined feedlot.

3. Nonvaccinated finished-fed heifers may move through cattle market/sale channels directly to slaughter without being "S"-branded.]

[(C)/(B) Testing of Bovine for Brucellosis.

1. The market/sale veterinarian must *[test/ draw blood on all test-eligible animals (bulls, heifers and cows eighteen (18) months of age and over) for brucellosis and submit those samples to the Cooperative State and Federal Veterinary Diagnostic Laboratory in Jefferson City for testing.* This includes animals consigned to slaughter and feedlots as well as those that might return to farms as breeding stock. *[All OCV dairy females under twenty (20) months of age and beef females under twenty-four (24) months of age are exempt from test if not parturient or post-parturient.]* An *[second]* exception may occur at markets/sales with enough volume of test-eligible slaughter cattle that have acquired an agreement with the state allowing release of untested slaughter cattle in a sealed truck. The market/sale veterinarian will supervise persons appointed to apply official United States Department of Agriculture (USDA) seals to sealed trucks if the licensee has an agreement with the state to do so.

2. A market/sale veterinarian may recognize a brucellosis test performed at a Missouri market/sale as an official and valid test for five (5) days if proper health certificates accompany the animal(s). An official bangle tag may serve as a health certificate for intrastate movement, provided the following information is shown on the tag:

A. Date of test;

B. Complete official eartag number;

C. Age of the animal;

D. State code letters of the testing veterinarian; and

E. If color-coded bangle tags are used to indicate stage of pregnancy, they shall be applied as follows:

(I) Blue—first trimester—one through three (1–3) months pregnant;

(II) Red—second trimester—four through six (4–6) months pregnant;

(III) Green—third trimester—seven through nine (7–9) months pregnant;

(IV) Yellow—open—not pregnant; and

(V) White—not examined for pregnancy status.

3. All out-of-state test-eligible cattle must be retested when presented to a Missouri market/sale. The market/sale veterinarian shall accurately complete form MODAV-20 upon release of any test-eligible cattle originating from other than brucellosis Class Free or brucellosis Class A states.

A. The intrastate movement permit number shall be the MODAV-20 certificate number preceded by the letter code of the issuing veterinarian.

B. The proper distribution of the form MODAV-20 certificate is as follows:

(I) The yellow copy shall be issued to the purchaser or his/her agent prior to release of the animal(s) from the livestock market/sale;

(II) The white copy shall be mailed to the Missouri Department of Agriculture; and

(III) The green copy shall be retained by the issuing veterinarian.

4. Proper procedure for determining the age of test-eligible cattle is—

A. Eighteen (18) months—absence of the central deciduous (baby) incisors;

B. Two (2) years—the presence of the first pair of fully erupted permanent incisor teeth;

C. Two and one-half (2 1/2) years—the appearance of the second pair of permanent incisor teeth;

D. Eruption, spread and wear of incisor teeth may be used to determine age; and

E. The age of the animal will be shown on the official bangle tag or displayed on the animal in a manner easily visible to the buyer.

[5. A positive reaction to the standard card test shall make that animal eligible for further testing on the brucellosis CITE Test, or any other test approved by the USDA and the state veterinarian. The results of the CITE Test shall be recorded on the VS 4-54 market/sale test record as positive or negative.

A. A positive CITE Test result occurs when the sample test spot develops a color equal to or greater than the intensity of the low calibration spot.

B. A negative CITE Test result occurs when the sample spot develops no color or develops a color of less intensity than the low calibration spot.]

(6) Required Testing and Handling of Sheep and Goats.

(A) Veterinary inspection is required on all sheep and goats prior to sale.

(B) Sheep and goats are required to have permanent official identification to be in compliance with the Scrapie Eradication Uniform Methods and Rules Effective October 1, 2003, which is hereby incorporated by reference and made a part of this rule.

1. All breeding sheep regardless of age.

2. All sheep over eighteen (18) months of age.

3. Breeding goats, except slaughter goats.

(C) Eligible sheep and goats that come into the market without official identification must have official identification applied at the market prior to commingling with other animals, and prior to sale.

(D) Any official identification that is applied by the market veterinarian or market personnel must maintain the following records:

1. The date tagged.

2. The number of sheep and the number of goats identified.

3. The serial numbers applied.

4. The name and address of the owner of the flock of origin.

5. If the person who currently owns the animals is different from the owner of the flock of origin or birth, the current owner's name and address.

6. If the owner of the flock of birth is different from the owner of the flock of origin, and if the animals were born after January 1, 2002, the name and address of the owner of the flock of birth, if known.

7. All records of official identification must be maintained for five (5) years.

[(6)/(7) Ratites (Including, but not limited to, Ostrich and Emu). All ratites must be individually identified by a means approved by the Missouri state veterinarian on a certificate of veterinary inspection. In addition, ratites imported into Missouri presented for sale at a livestock market/sale must obtain an entry permit.

[(7)/(8) Miscellaneous and Exotic Animals. All exotic animals presented for exchange, barter, lease or sale at a licensed livestock mar-

ket/sale must be accompanied by an official Certificate of Veterinary Inspection showing an individual listing of the common and scientific name(s) of the animal(s) and appropriate descriptions of animal(s) such as sex, age, weight, coloration and the permanent tag number, brand or tattoo identification.

(A) Exotic bovids eight (8) months of age and over must have a negative brucellosis test and a negative tuberculosis test within thirty (30) days prior to arrival at the market/sale. Exotic bovids include *Bos gaurus* (Indian bison, Gaur) *Bos javanicus* (Banteng), *Bos sauveli* (Kouprey), *Bos grunniens* (domesticated yak), *Bubalus bubalis* (water buffalo), *Bubalus mindorensis* (Tamarau), *Bubalus quarlesi* (Mountain Anoa), *Bubalus depressicornis* (Lowland Anoa) and *Syncerus caffer* (buffalo group).

(B) Exotic cattle must meet the same brucellosis requirements as domestic cattle. These animals eight (8) months of age and over must be tested for tuberculosis within thirty (30) days prior to arrival at the market/sale.

(C) Camels, llamas, alpaca and others of that group must be officially identified by tattoo, microchip, eartag or other approved device and be listed individually on a Certificate of Veterinary Inspection.

(D) Captive cervids from out-of-state that arrive at a market/sale in Missouri must have an entry permit issued by the state veterinarian's office and a Certificate of Veterinary Inspection. Captive cervids from out-of-state that arrive at a market/sale must be in compliance with the guidelines as incorporated by reference to the *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999* and *Brucellosis in Cervidae: Uniform Methods and Rules, Effective September 30, 1998*. Movement of Missouri origin captive cervids must be in compliance with Missouri's intrastate movement regulations.

1. All sexually intact animals six (6) months of age or older, not under quarantine and not affected with brucellosis, must test negative for brucellosis within thirty (30) days prior to arrival at the market/sale, except:

A. Brucellosis-free herd—captive cervids originating from certified brucellosis-free herds may be sold through a market/sale on the current herd number and test date;

B. Brucellosis-monitored herd—all sexually intact animals six (6) months of age or older must test negative for brucellosis within ninety (90) days prior to arrival at the market/sale.

2. Captive cervids not known to be affected with or exposed to tuberculosis, and not in a status herd as defined in the *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999*, must have two (2) negative tuberculosis tests, not less than ninety (90) days apart, using the single cervical method. The second test must be within ninety (90) days prior to arrival at the market/sale.

3. Movement from status herds.

A. Accredited herd—captive cervids originating from accredited tuberculosis-free cervid herd as defined by the *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999*, may be sold through a market/sale on the current herd number and test date.

B. Qualified herd—captive cervids originating from a qualified herd as defined by the *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999*, must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days prior to arrival at the market/sale.

C. Monitored herd—captive cervids originating from a monitored herd as defined by the *Bovine Tuberculosis Eradication Uniform Methods and Rules, Effective January 22, 1999*, must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days prior to arrival at the market/sale.

D. Captive cervids less than twelve (12) months of age that originate from and were born in qualified or monitored herds may be sold through a market/sale without further tuberculosis testing, provided that they are accompanied by a certificate stating that such cap-

tive cervids originated from such herds and have not been exposed to captive cervids from a lower status herd.

4. Captive cervids from an area that has been reported as a chronic wasting disease (CWD) endemic area or any cervid that has been in an endemic area in the last five (5) years will not be allowed to move through a Missouri livestock market/sale.

5. Elk, elk-hybrids, white-tailed deer and mule deer from all states must have participated in a surveillance program for at least three (3) years prior to moving through a Missouri livestock market/sale. Other captive cervids must have participated in a surveillance program recognized by the state of origin prior to moving through a Missouri livestock market/sale.

(E) Exotic goats, sheep and antelope. No tests are required on these animals.

(F) Exotic equine, donkeys, asses, burros and zebras must meet domestic equine requirements.

(G) Feral swine, javalena, and peccaries must be in compliance with domestic swine requirements.

(H) Elephants (Asiatic, African) must be tested negative for tuberculosis within one (1) year prior to exhibition.

(I) Importation of skunks and raccoons into Missouri is prohibited by the *Missouri Wildlife Code* (3 CSR 10-9).

(9) Poultry.

(A) Out-of-state live poultry (except those consigned directly to slaughter) shall be accompanied by an official Certificate of Veterinary Inspection or a VS Form 9-3 (see 2 CSR 30-2.040). If a VS Form 9-3 is used, a signed and dated owner/shipper statement must be included stating that to his/her best knowledge, the birds are healthy. Poultry known to be infected with pullorum or typhoid that are consigned directly to slaughter must be identified as such by the consignor.

(B) Out-of-state live poultry entering Missouri must be tested negative for pullorum-typhoid within the past ninety (90) days or originate from a flock approved by the National Poultry Improvement Plan (NPIP) or an equivalent program which has been tested within the past twelve (12) months with no change of ownership.

(C) All hatching eggs must be accompanied by an official Certificate of Veterinary Inspection certifying the eggs to be from pullorum-free flocks or by a VS Form 9-3.

(D) Out-of-state poultry and hatching eggs moving through a Missouri livestock market/sale require an entry permit prior to shipment. Annual entry permits shall be issued by the department to participants in the NPIP or an equivalent program. Producers not approved by NPIP or an equivalent program must request a permit with each shipment.

AUTHORITY: section 277.160, RSMo 2000. Original rule filed June 15, 1990, effective Dec. 31, 1990. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed March 5, 2004, effective March 15, 2004, expires Aug. 27, 2004. Amended: Filed March 5, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment may have the potential of costing private entities \$0 to \$1 per head in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Division of Animal Health, Taylor H. Woods, D.V.M., State Veterinarian, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing scheduled.

**FISCAL NOTE
PRIVATE COST**

I. RULE NUMBER

Rule Number and Name:	2 CSR 30-6.020 Duties and Facilities of the Market/Sale Veterinarian
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
62,858 sheep 403 goats	individual who brings sheep, goats or poultry into a Missouri licensed livestock market/sale	The estimated cost of this proposed amendment is \$0 - \$63,261. Cost to an individual producer to identify their animal at a market range from \$0 to \$1 per head. The number of producers that are represented by the volume of livestock is unknown.

III. WORKSHEET

See table above.

IV. ASSUMPTIONS

The cost of compliance for the sheep/goat and poultry industry with this proposed amendment is based on:

- The estimated number of sheep/goats/poultry is based on 2003 figures.
- The official identification applied to sheep and goats by market sale veterinarians will be furnished by the state at no cost at this time.
- Market may charge producer for the application of the official identification.
- Current regulations require markets to maintain records on livestock that move through the livestock market/sale.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 9—Wildlife Code: Confined Wildlife:
Privileges, Permits, Standards**

PROPOSED AMENDMENT

3 CSR 10-9.565 Licensed Hunting Preserve: Privileges. The commission proposes to amend subsection (1)(B).

PURPOSE: This amendment will eliminate the “ramp-up” requirement for the intrastate movement of cervids.

(1) Licensed hunting preserves are subject to inspection by an agent of the department at any reasonable time. Animal health standards and movement activities shall comply with all state and federal regulations. Any person holding a licensed hunting preserve permit may release on his/her licensed hunting preserve legally acquired pheasants, exotic partridges, quail and ungulates (hoofed animals) for shooting throughout the year, under the following conditions:

(B) Big Game Hunting Preserve.

1. The big game hunting preserve for ungulates shall be a fenced single body of land, not dissected by public roads, and not less than three hundred twenty (320) acres and no more than three thousand two hundred (3,200) acres in size. The hunting preserve shall be fenced so as to enclose and contain all released game and exclude all hoofed wildlife of the state from becoming a part of the enterprise and posted with signs specified by the department. Fence height shall meet standards specified in 3 CSR 10-9.220.

2. All elk, elk-hybrids, mule deer, and white-tailed deer introduced into a big game hunting preserve shall meet the following requirements:

A. Animals shall be tagged or marked in a method allowing individual animal identification.

B. Animals imported into Missouri must come from a herd that is enrolled and has achieved a status three (3) or higher in a United States Department of Agriculture approved or state-sponsored chronic wasting disease monitoring program—three (3) years of surveillance, advancement, and successful completion of program requirements.

C. Animals from within Missouri must come from a herd comprised of animals enrolled in a United States Department of Agriculture approved or state-sponsored chronic wasting disease monitoring program. *[Effective January 1, 2004, the minimum herd status requirement will annually increase by one (1) level until January 1, 2006 when all introduced animals shall come from herds that have achieved a status three (3) or higher—three (3) years of surveillance, advancement, and successful completion of program requirements.]*

3. Effective January 1 of each year, one hundred percent (100%) of all elk, elk-hybrids, mule deer, and white-tailed deer over twelve (12) months of age that die of any cause within a big game hunting preserve operation, shall be tested for chronic wasting disease at a federally approved laboratory, up to an annual total of ten (10) animals in the aggregate, except:

A. Big game hunting preserve operations that have not introduced, during the past three (3) years, any elk, elk-hybrids, mule deer or white-tailed deer from a herd having a status less than three (3) as documented through a United States Department of Agriculture approved or state-sponsored chronic wasting disease monitoring program—three (3) years of surveillance, advancement, and successful completion of program requirements.

B. Elk, elk-hybrids, mule deer, and white-tailed deer documented through Missouri's Chronic Wasting Disease Monitoring Program as status five (5) herds—five (5) years of surveillance, advancement, and successful completion of program requirements.

4. All permits issued by the state veterinarian's office allowing cervids to enter Missouri and all chronic wasting disease test results

must be kept by the permittee and are subject to inspection by an agent of the department at any reasonable time. All test results documenting a positive case of chronic wasting disease shall be reported immediately to an agent of the department.

5. The permittee may exercise privileges provided in 3 CSR 10-9.353 only for species held within breeding enclosure(s) contained within or directly adjacent to the big game hunting preserve. Any such breeding enclosure(s) shall meet standards specified in 3 CSR 10-9.220. Breeding enclosures may be separated from the hunting preserve by a public road, but must be directly adjacent. Other breeding enclosures not contained within or directly adjacent to the hunting preserve are not covered under the privileges of this rule.

6. Any person taking or hunting ungulates on a big game hunting preserve shall have in his/her possession a valid licensed hunting preserve hunting permit. The permittee shall attach to the leg of each ungulate taken on the hunting preserve a locking leg seal furnished by the department, for which the permittee shall pay ten dollars (\$10) per one hundred (100) seals. Any packaged or processed meat shall be labeled with the licensed hunting preserve permit number.

7. Animal health standards and movement activities shall comply with all state and federal regulations.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. This rule previously filed as 3 CSR 10-10.765. Original rule filed Jan. 19, 1972, effective Feb. 1, 1972. For intervening history, please consult the Code of State Regulations. Amended: Filed March 4, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 20—Wildlife Code: Definitions**

PROPOSED AMENDMENT

3 CSR 10-20.805 Definitions. The commission proposes to amend sections (11) and (25).

PURPOSE: This amendment changes the definition of commercial fish and adds shovelnose sturgeon to the list of game fish.

(11) Commercial fish: All fish except *[shovelnose sturgeon more than thirty inches (30") in length (measured from tip of snout to fork of tail), pallid and lake sturgeon]* **endangered species as listed in 3 CSR 10-4.111(3)** and game fish as defined in this rule. Includes those species for which sale is permitted when legally obtained. For purposes of this Code, packaged salt water species or freshwater species not found in waters of this state, when the processed fish are truly labeled as to content, point of origin and name and address of the processor, are exempt from restrictions applicable to native commercial fish. Commercial fish include common snapping and soft-shelled turtles and crayfish taken from waters open to commercial fishing. In the Mississippi River and that part of the St. Francis River which forms the boundary between the states of Arkansas and Missouri, commercial fish also include channel,

blue and flathead catfish at least fifteen inches (15") in total length. In the Mississippi River only, commercial fish also include paddlefish at least twenty-four inches (24") in length (measured from eye to fork of tail) and shovelnose sturgeon up to thirty inches (30") in length (measured from tip of snout to fork of tail). In the Missouri River downstream from U.S. Highway 169 to Carl R. Noren Access and downstream from Chamois Access to its confluence with the Mississippi River, commercial fish also include shovelnose sturgeon twenty-four inches to thirty inches (24"-30") in length (measured from tip of snout to fork of tail).

(25) Game fish: Shall include the following in which the common names are to be interpreted as descriptive of, but not limiting, the classification by Latin names:

(C) *Esox*, all species commonly known as muskellunge, tiger muskie, muskie-pike[,/] hybrid, northern pike, chain pickerel, grass pickerel.

(L) *Scaphirhynchus platyrhynchus*, commonly known as shovelnose sturgeon, hackleback, sand sturgeon.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. This rule previously filed as 3 CSR 10-11.805. Original rule filed April 30, 2001, effective Sept. 30, 2001. Amended: Filed May 9, 2002, effective Oct. 30, 2002. Amended: Filed Aug. 30, 2002, effective Feb. 28, 2003. Amended: Filed Oct. 9, 2003, effective March 30, 2004. Amended: Filed March 4, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with John W. Smith, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 10—Missouri State Board of Accountancy Chapter 1—Organization and Description of Board

PROPOSED AMENDMENT

4 CSR 10-1.010 General Organization. The board is proposing to amend sections (4)–(6) and section (8) and add a new section (9).

PURPOSE: This rule is being amended to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

(4) The board is directed by [sections 326.110 and 326.170] Chapter 326, RSMo to adopt rules for the application and enforcement of Chapter 326, RSMo.

(5) The board has superintending control over the practice of accounting in Missouri and its primary duties consist of—

(A) Examination[, certification] and licensing of applicants;

(B) Registration and licensing of certified public [accountant firms and professional corporations] accounting firms;

(C) [Annual registration of each office established in the state for the practice of public accounting by a certified public accountant or public accountant, partnership or corpora-

tion of certified public accountants and partnership or corporation of public accountants] The establishment and collection of fees, penalties, and all monies payable to the State Board of Accountancy Fund and the Missouri State Board of Accountancy Investigation Fund;

(D) Review and investigation of complaints; [and]

(E) Disciplinary action including [suspending or revoking] sanctioning of certificates, licenses, and permits of certified public accountants [or] and certified public [accountants] accounting firms who [are guilty of violating] have been found to have violated the provisions of Chapter 326, RSMo[.]; and

(F) Protecting the public while maintaining the integrity of the profession.

(6) The board shall hold regular meetings as determined by the board. The annual meeting of the board shall be held between May 1 and July 31 of each year. [Three (3)] Four (4) voting members of the board shall constitute a quorum at any meeting. Information as to the dates and place of meetings can be obtained by contacting the Executive Director, P[er]f[ormance] Box 613, Jefferson City, MO 65102-0613, (573) 751-0012 or www.ded.state.mo.us/pr/account.

(8) Any person may contact the Missouri State Board of Accountancy, P[er]f[ormance] Box 613, Jefferson City, MO 65102-0613, (573) 751-0012 or www.ded.state.mo.us/pr/account for information and application forms or to register a complaint involving the public accounting profession as provided in 4 CSR 10-1.030.

(9) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.

AUTHORITY: sections [326.110, RSMo 1994] 326.256, 326.259.4, 326.262, 326.268.1 and 326.319, RSMo Supp. 2003. Original rule filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed Dec. 7, 1982, effective March 11, 1983. Amended: Filed Aug. 3, 1988, effective Nov. 24, 1988. Amended: Filed Nov. 13, 1992, effective June 7, 1993. Amended: Filed April 9, 1993, effective Oct. 10, 1993. Amended: Filed Feb. 1, 1996, effective July 30, 1996. Amended: Filed April 5, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 10—Missouri State Board of Accountancy Chapter 1—Organization and Description of Board

PROPOSED AMENDMENT

4 CSR 10-1.030 Public Complaint Handling and Disposition Procedure. The board is proposing to amend sections (1), (3), (4)

and (6), add a new section (9) and delete the form that immediately follows this rule in the *Code of State Regulations*.

PURPOSE: *This rule is being amended to implement provisions of the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly. This amendment also deletes the form that immediately follows this rule in the Code of State Regulations.*

(1) The Missouri State Board of Accountancy shall receive and process each complaint alleging certain acts or practices which may constitute one (1) or more violations of the provisions of Chapter 326, RSMo by any licensee, **certificate holder**, permit holder, *[registrant of the board]* or unlicensed individual or entity. Any individual, except a member of the board, may make and file a complaint with the board. A member of the board may file a complaint if *[s/he]* **he or she** excuses him/herself from further board deliberations or activity concerning the matters alleged within the complaint. The executive director or any staff member of the board may file a complaint in the same manner as any other person.

(3) Oral or telephone communications will not be considered or processed as complaints, but the person making the communications will be provided with a complaint form and requested to complete it and return it to the board. Any member of the administrative staff of the board may make and file a complaint based upon information and belief, in reliance upon oral or telephone communications received by the board, *[unless those communications are believed by the staff member to be false]*.

(4) Each complaint received under this rule shall be logged in a *[book]* **database** maintained by the board for that purpose. *[Complaints shall be logged in consecutive order as received. The log book]* **The complaint database** shall contain a record of each complainant's name and address; the name and address of the subject of the complaint; the date each complaint is received by the board; a brief statement of the acts complained of, including the name of any victim of the alleged acts or practices; a notation as to whether or not the complaint resulted in its dismissal by the board or settlement in lieu of filing of formal charges with the Administrative Hearing Commission or in the filing of a formal complaint with the Administrative Hearing Commission seeking disciplinary action; and the ultimate disposition of the complaint. This *[log book]* **database** shall be a closed record of the board **pursuant to section 326.295, RSMo**.

(6) Both the complaint and any information obtained as a result of the investigation shall be considered a closed record of the board and shall not be available for inspection by the public. *[However, upon receipt of a signed authorization on a form provided by the board from the person who is the subject of the complaint and payment of the fee established under 4 CSR 10-2.160, the board shall provide that person, or that person's]* **The board shall provide the subject of the complaint, or the subject of the complaint's authorized representative, upon a receipt of a signed authorization**, with a copy of the complaint and any attachments to the complaint unless otherwise privileged. During the investigative stage, the board or its executive staff shall keep the complaint and the fact of its existence confidential to the extent practicable.

(9) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.

AUTHORITY: *sections [326.110, RSMo Supp. 1993] 326.262, 326.295, and 620.010.15(6), RSMo Supp. 2003. Original rule filed Nov. 10, 1981, effective April 11, 1982. Amended: Filed Jan. 23, 1986, effective June 28, 1986. Amended: Filed Aug. 13, 1987, effective Nov. 23, 1987. Amended: Filed April 3, 1990, effective Sept. 28, 1990. Amended: Filed April 9, 1993, effective Oct. 10, 1993. Amended: Filed April 5, 2004.*

PUBLIC COST: *This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 10—Missouri State Board of Accountancy Chapter 1—Organization and Description of Board

PROPOSED RESCISSION

4 CSR 10-1.040 Board Policy on Release of Public Information. This rule set forth the board's written policy in compliance with sections 610.010–610.030, RSMo regarding the release of information on any meeting, record or vote of the board.

PURPOSE: *This rule is being rescinded to allow the office to adopt an administrative policy.*

AUTHORITY: *section 326.110, RSMo 1994. Original rule filed Oct. 22, 1987, effective March 25, 1988. Amended: Filed Feb. 25, 1993, effective Aug. 9, 1993. Amended: Filed Feb. 1, 1996, effective July 30, 1996. Rescinded: Filed April 5, 2004.*

PUBLIC COST: *This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 10—Missouri State Board of Accountancy Chapter 2—General Rules

PROPOSED RESCISSION

4 CSR 10-2.005 Definitions. This rule defined terms used in the rules of the Missouri State Board of Accountancy. The board is also proposing to delete the annotation that immediately follows this rule in the *Code of State Regulations*.

PURPOSE: This rule is being rescinded and readopted to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly. The board is also deleting the annotation that immediately follows the rule in the Code of State Regulations.

AUTHORITY: section 326.110, RSMo 1994. Original rule filed July 3, 1975, effective Aug. 25, 1975. Amended: Filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed Nov. 10, 1981, effective April 11, 1982. Amended: Filed Sept. 3, 1986, effective Jan. 30, 1987. Amended: Filed Feb. 5, 1990, effective June 28, 1990. Amended: Filed June 4, 1990, effective Nov. 30, 1990. Amended: Filed Sept. 25, 1991, effective March 9, 1992. Amended: Filed Oct. 13, 1993, effective May 9, 1994. Amended: Filed Aug. 25, 1995, effective March 30, 1996. Rescinded: Filed April 5, 2004.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

PROPOSED RULE

4 CSR 10-2.005 Definitions

PURPOSE: This rule defines terms used in the rules of the Missouri State Board of Accountancy.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) Commission fee or referral fee shall include, but not be limited to:

(A) Any fee, profit or other thing of value required or received for the rendering or selling of goods or services; or

(B) Any fee, profit or other thing of value required or received for referring a client to the products or services of others; or

(C) Any fee, profit or other thing of value paid to obtain a client. This rule does not apply to payments made where the payments are

part of the employees' compensation or for the purchase of all, or a material part, of an accounting practice, or to retirement payments to persons formerly engaged in the practice of public accounting.

(2) Contingent fee means compensation for the performance of professional services where the compensation or the amount is contingent upon the findings or result of those services.

(3) CPA means a certified public accountant.

(4) Enterprise means any person(s) or entity, whether organized for profit or not, for which a licensee provides services.

(5) Financial statement is a presentation of financial data, including accompanying notes, if any, intended to communicate an entity's economic resources and/or obligations at a point in time or the changes therein for a period of time, in accordance with generally accepted accounting principles or a comprehensive basis of accounting other than generally accepted accounting principles. Incidental financial data to support recommendations to a client or in documents for which the reporting is governed by Statements on Standards for Attestation Engagements, which is incorporated by reference in this rule, and tax returns and supporting schedules do not, for this purpose, constitute financial statements. The statement, affidavit, or signature of preparers required on tax returns neither constitutes an opinion on financial statements nor requires a disclaimer of such opinion. Statement on Standards of Attestation Engagement are documents included in the American Institute of Certified Public Accountants (AICPA) Code of Professional Conduct, which is incorporated by reference in this rule. A printed copy or copy on CD-Rom or other electronic copies of the Rules of Professional Conduct may also be obtained from the American Institute of Certified Public Accountants, PO Box 2209, Jersey City, New Jersey 07303-2209 or <http://www.aicpa.org>.

(6) Practice of public accounting means:

(A) Performing or offering to perform for an enterprise, client or potential client one (1) or more services involving the use of accounting or auditing skills or one (1) or more management advisory or consulting services or the preparation of tax returns or the furnishing of advice on tax matters by a person or firm using the title "CPA" in signs, advertising, directory listings, business cards, letterheads, or other public representations, except that this shall not contradict section 326.292, RSMo;

(B) Signing or affixing one's own name, any trade or assumed name used by him or her, or a professional firm in his or her or its professional firm name, with any wording indicating he or she or the professional firm has expert knowledge in accounting or auditing, to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing financial information or facts respecting compliance with conditions established by law or contract including, but not limited to, statutes, ordinances, rules, grants, loans and appropriations, except that this shall not contradict section 326.292, RSMo;

(C) Offering to the public or to prospective clients to perform or actually performing on behalf of clients any professional services that involve or require an audit or examination of financial records leading to the expression of a written attestation or opinion concerning these records, except that this shall not contradict section 326.292, RSMo; or

(D) Maintaining an office for the transaction of business as a CPA firm.

(7) Professional services means any services including all services performed by a member while holding himself or herself out as a CPA.

(8) Resident of this state is an individual considered to be for the purposes of Chapter 326, RSMo, a resident of this state, provided:

(A) The individual maintains a permanent place of residence in Missouri and actually resides in Missouri;

(B) The individual is a full-time student at an accredited college or university in this state;

(C) The individual who is a graduate from a Missouri college or university, and at the time of graduation had a Missouri address, shall be considered a resident of this state for six (6) months from the date of graduation;

(D) The individual is regularly employed full-time in this state; or

(E) The individual is a permanent resident of Missouri and is serving on active duty in the armed services, or the individual is a permanent resident of Missouri and is the spouse of an individual serving on active duty in the armed services. To satisfy the requirements of this rule, employment in Missouri need not be in public accounting.

(9) A resident manager of an office is a CPA holding an active license to practice, issued under section 326.280, RSMo and currently practicing public accounting, who has direct supervision of the office and who, in addition, oversees the planning, administration, direction and review of the services being performed by that office.

(10) Accounting firm is a certified public accountant firm, a CPA firm, or firm, sole proprietorship, a corporation, a partnership or any other form of organization issued a permit pursuant to section 326.289, RSMo.

(11) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.

AUTHORITY: sections 326.256 and 326.262, RSMo Supp. 2003. Original rule filed July 3, 1975, effective Aug. 25, 1975. For intervening history, please consult the Code of State Regulations. Rescinded and readopted: Filed April 5, 2004.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 10—Missouri State Board of Accountancy Chapter 2—General Rules

PROPOSED RESCISSION

4 CSR 10-2.010 Eligibility Requirements for a Certificate as a Certified Public Accountant. This rule clarified the requirements of the statutes an applicant shall meet before being granted a certificate as a certified public accountant. This rule also explained some of the statutory requirements set out in section 326.280, RSMo.

PURPOSE: This rule is being rescinded to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

AUTHORITY: section 326.110, RSMo Supp. 1997. This version of rule filed Sept. 11, 1974, effective Sept. 21, 1974. Amended: Filed Jan. 13, 1975, effective Jan. 23, 1975. Rescinded and readopted: Filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed Aug. 6, 1981, effective Dec. 11, 1981. Amended: Filed Dec. 15, 1983, effective April 12, 1984. Amended: Filed April 9, 1993, effective Oct. 10, 1993. Amended: Filed March 17, 1994, effective Sept. 30, 1994. Amended: Filed June 10, 1998, effective Dec. 30, 1998. Rescinded: Filed April 5, 2004.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 10—Missouri State Board of Accountancy Chapter 2—General Rules

PROPOSED RESCISSION

4 CSR 10-2.021 Temporary Certificates and Temporary Permits. This rule clarified the requirements of section 326.280, RSMo relating to the issuance of temporary certificates and temporary permits to certified public accountants from another state moving to Missouri to practice public accounting in Missouri.

PURPOSE: This rule is being rescinded to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

AUTHORITY: sections 326.110 and 326.170, RSMo 1994. Original rule filed Sept. 10, 1978, effective Jan. 13, 1979. Amended: Filed Jan. 23, 1986, effective June 28, 1986. Amended: Filed Sept. 20, 1994, effective April 30, 1995. Rescinded: Filed April 5, 2004.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

PROPOSED RESCISSION

4 CSR 10-2.030 Reciprocity. This rule clarified the requirements of the statutes as they pertain to the issuance of the certificate of certified public accountant to applicants from other states.

PURPOSE: This rule is being rescinded to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

AUTHORITY: section 326.110, RSMo 1994. Original rule filed Sept. 11, 1974, effective Sept. 21, 1974. Rescinded and readopted: Filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed Aug. 6, 1981, effective Dec. 11, 1981. Amended: Filed Oct. 13, 1993, effective May 9, 1994. Rescinded: Filed April 5, 2004.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

PROPOSED AMENDMENT

4 CSR 10-2.041 Eligibility Requirements for the [C.P.A.] CPA Examination. The board is proposing to amend sections (1)–(7).

PURPOSE: This rule is being amended to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

(1) The applicant must comply with [sub]section [326.060] 326.280.1(1), (2) and (3), RSMo and either—

(A) If [s/he applies] he or she applied for the initial examination prior to June 30, 1999, hold a baccalaureate or higher degree conferred by an accredited college or university recognized by the board with a concentration or major in accounting or substantially the equivalent of a concentration in accounting as described in subsection (2)(A) or (B) of this rule; or

(B) If [s/he applies] he or she applied for the initial examination on or after June 30, 1999, have at least one hundred fifty (150) semester hours of college education including a baccalaureate or higher degree conferred by an accredited college or university recognized by the board with a concentration or major in accounting or substantially the equivalent of a concentration in accounting as described in subsection (2)(C) of this rule.

(2) The equivalent of a concentration in accounting shall be determined in the following manner:

(C) For candidates whose applications for the initial examination were postmarked on or after June 30, 1999, the concentration or major in accounting, or the equivalent of a concentration in accounting shall be sixty (60) semester hours or ninety (90) quarter hours of accounting and other related courses. At least twenty-seven (27) semester hours or forty (40) quarter hours shall be accounting courses with at least one (1) course in auditing and at least eighteen (18) semester hours or twenty-seven (27) quarter hours of accounting courses taken at the upper division level. [Principles of accounting (or i/Introductory accounting/)] courses will not be credited toward the required number of hours of accounting courses, but may be credited toward the other related courses. For the purposes of this rule “upper division level” courses shall mean courses taken beyond the elementary level. The remaining thirty-three (33) semester hours or fifty (50) quarter hours shall be in accounting or other areas of business administration such as business law, statistics, economics, finance, marketing, management, data processing and business communications. These courses shall be taken at an accredited college or university recognized by the board.

(3) An applicant for the examination whose initial application to Missouri is postmarked on or after June 30, 1999, who meets the qualifications in [sub]section/s 326.060/ 326.280.1(1), (2) and (3), RSMo—

(A) Who sat for the examination in another jurisdiction prior to June 30, 1999, or whose original application for the examination was postmarked to the other jurisdiction prior to June 30, 1999, if [s/he/ he or she] meets the standard in subsections (1)(A) and (2)(A) or (B) of this rule, then examination credit will be granted in accordance with the provisions of section [326.060/ 326.280], RSMo and rule 4 CSR 10-2.140 just as though the candidate had been approved and had sat in Missouri and [s/he/ he or she] will be approved to sit as a Missouri candidate; or

(B) Whose original application for the examination was postmarked to another jurisdiction on or after June 30, 1999 or, if the postmark date is not available, who first sat for the examination in the other jurisdiction after June 30, 1999, if [s/he/ he or she] meets the standard in subsections (1)(B) and (2)(C) of this rule, then examination credit will be granted in accordance with the provisions of section [326.060/ 326.280], RSMo and rule 4 CSR 10-2.140 just as though the candidate had been approved and had sat in Missouri and [s/he/ he or she] will be approved to sit as a Missouri candidate.

(4) Once an applicant has qualified under sections (1) and (2) of this rule and been approved by the board as a Missouri candidate for the examination, and as long as [s/he/ he or she] continues to meet the requirement of subsection [326.060/ 326.280.1(3)], RSMo and has not committed an act or acts which would be cause to deny an application under section [326.130/ 326.310], RSMo, [s/he/ he or she] will be considered qualified for subsequent examinations.

(5) An applicant who satisfies the requirements of section [326.060/ 326.280.1(1), (2) and (3)], RSMo shall be eligible to take the examination if the applicant reasonably expects to satisfy the educational requirements of section [326.060/ 326.280.1(4)], RSMo within sixty (60) days after the examination. No [certificate/ license] shall be issued or credit for the examination issued unless the educational requirements [is/ are], in fact, met within the sixty (60)-day period.

(6) Any university or college accredited by the Middle States Association of Colleges and Schools, New England Association of Schools and Colleges, North Central Association of Colleges and Schools, Northwest Association of Schools and Colleges, Southern Association of Colleges and Schools or Western Association of Schools and Colleges is recognized by the board and will satisfy the

requirements of section [326.060] 326.280.1, RSMo and this rule. The board may recognize as accredited, any university or college accepted by two (2) or more states for the purpose of allowing a candidate to sit for the certified public accountant examination.

(7) *[To satisfy the requirements of this rule, employment in Missouri need not be in public accounting.]* The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.

AUTHORITY: sections 326.262 and 326.280[.1(4)], RSMo Supp. [2001] 2003. Original rule filed Sept. 13, 1978, effective Jan. 13, 1979. For intervening history, please consult the *Code of State Regulations*. Amended: Filed April 5, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 10—Missouri State Board of Accountancy Chapter 2—General Rules

PROPOSED RESCISSION

4 CSR 10-2.042 Definition of a Resident of This State. This rule defined the phrase “a resident of this state” as used in section 326.280, RSMo and rules 4 CSR 10-2.010 and 4 CSR 10-2.041.

PURPOSE: This rule is being rescinded to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

AUTHORITY: section 326.110, RSMo 1994. Original rule filed Sept. 12, 1984, effective Jan. 12, 1985. Rescinded: Filed April 5, 2004.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 10—Missouri State Board of Accountancy Chapter 2—General Rules

PROPOSED AMENDMENT

4 CSR 10-2.051 Registration of [Firms, Partnerships, Limited Liability Companies and Professional Corporations as Certified Public Accountants and Public Accountants] Certified Public Accounting Firms. The board is proposing to amend the title, the original purpose statement, delete sections (1)–(3) and add new sections (1)–(14) and delete the forms that immediately follows this rule in the *Code of State Regulations*.

PURPOSE: This rule is being amended to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly. This amendment also deletes the forms that immediately follows this rule in the *Code of State Regulations*.

PURPOSE: This rule clarifies the requirements of section[s] 326.040 and 326.050] 326.289, RSMo for registration of [firms, partnerships, limited liability companies and professional corporations as certified public accountants and public accountants] *certified public accounting firms*.

(1) Each certified public accounting firm shall provide the board with a completed initial firm permit application form provided by the board and pay all applicable fees as determined by the board.

[(1)](2) *[Applications for approval of the registration of a firm, partnership, limited liability company or professional corporation and a permit to practice as required in sections 326.040 and 326.050, RSMo shall be filed with the board prior to the date the firm, partnership, limited liability company or professional corporation begins the practice of public accounting in this state.]* Applications for approval of the permit of a certified public accounting firm shall be filed with the board prior to the date the firm begins the practice of public accounting in this state.

[(2)](3) *[If a partner, member or shareholder is admitted or a partner, member or shareholder withdraws and there is a resulting change in the name of the firm, partnership, limited liability company or professional corporation, it shall be considered by the board as a new firm, partnership, limited liability company or professional corporation which must file applications for registration and a permit to practice.]* If a partner, member or shareholder is admitted or a partner, member or shareholder withdraws and there is a resulting change in the name of the certified public accounting firm, it shall be considered by the board as a new firm, which must file an application for a permit to practice.

[(3)](4) *[All out-of-state certified public accountant firms, partnerships, limited liability companies and professional corporations which regularly practice public accounting in this state must be registered with the board under section 326.040 or 326.050, RSMo and must obtain a permit to practice. All partners, members, shareholders and employees of these firms, partnerships, limited liability companies and professional corporations who regularly practice in this state, must obtain a permit to practice issued under section 326.210, RSMo.]* All out-of-state certified public accounting firms that practice public accounting in this state must obtain a permit to practice. All partners, members, shareholders and employees of these firms, who practice in this state, must obtain

a license or a provisional license to practice issued under Chapter 326, RSMo. There must be at least one (1) active individual Missouri certified public accountant (CPA) licensee or Missouri CPA provisional licensee in the firm for the firm's permit to be considered active.

(5) Each office established, registered or maintained for the practice of public accounting by a CPA or certified public accounting firm, out of which a CPA practices or offers to practice public accounting shall be registered with the board annually. Application shall be on a form provided by the board and shall include the name and license number of the resident manager of each office.

(6) Notice shall be given to the board within thirty (30) days of any change of an office address, change of resident manager for an existing office, the address of any additional office opened for the practice of public accounting or of the closing of any office. No form is provided by the board for this notice, but the notice must be in writing and must be clearly headed with "Notice of New Office," "Change of Address of Office," "Change of Resident Manager" or "Closing of Office" and in the case of a new office must contain the name and license number of the resident manager.

(7) Before a current permit to practice will be issued an applicant must pay all required fees and penalties that were not paid previously for all years the applicant was engaged in the practice of public accounting in Missouri. No permit shall be issued or reinstated until all required fees and penalties are paid by the applicant.

(8) Each certified public accounting firm shall attest that all employees, representatives and agents practicing public accounting in Missouri and all Missouri resident partners, members, managers and shareholders of certified public accounting firms who hold Missouri certificates issued under prior law or any individual who received an initial license after August 28, 2001 hold an active Missouri license to practice in a certified public accounting firm.

(9) The change of majority ownership, form of organization (i.e., professional corporation (PC), limited liability company (LLC), etc.), or name or title of the firm, shall require the issuance of a new permit to practice public accounting with the completion of an initial firm permit application form provided by the board and payment of all applicable fees as determined by the board.

(10) In the event a firm through which the practicing CPAs are provisionally licensed, and there is no physical location for the firm within the state of Missouri, the firm shall complete the form for such practice as provided by the board and payment of all applicable fees as determined by the board. The firm permit shall only be valid for such time that the firm has an active provisional licensee in the state of Missouri. If the firm opens or operates a firm location within the state of Missouri, the firm is required to complete an initial firm permit application and pay all applicable fees as determined by the board.

(11) The name of the firm shall not be misleading nor shall it include words or phrases that are quantitative or qualitative such as: "biggest," "best," "finest," "cheapest," etc.

(12) The name of sole proprietorships or sole practitioners shall not include the words "and Associates," "Company," "and Company," or any designation that implies there is multiple or corporate ownership. Sole proprietorships and sole practitioners

shall only use a business name that is in the singular form or represents itself in a neutral manner.

(13) Names of one (1) or more past partners, members or shareholders may be included in the firm name of a partnership, limited liability company, or professional corporation or its successor. A partner surviving the death or withdrawal of all other partners may continue to practice under a partnership name for up to two (2) years after becoming a sole proprietorship or a sole practitioner.

(14) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.

AUTHORITY: sections [326.110, RSMo 1994] 326.262 and 326.289, RSMo Supp. 2003. Original rule filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed March 14, 1984, effective July 12, 1984. Amended: Filed Oct. 13, 1993, effective May 9, 1994. Amended: Filed April 5, 2004.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions an estimated four hundred sixty-seven dollars and seventy-three cents (\$467.73) annually for the life of the rule. It is anticipated that the total annual cost will recur for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

PRIVATE COST: This proposed amendment will cost private entities an estimated eight thousand one hundred thirty-seven dollars (\$8,137) annually for the life of the rule. It is anticipated that the total annual cost will recur for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

PUBLIC ENTITY FISCAL NOTE

I. RULE NUMBER

Title 4 - Department of Economic Development

Division 10 - Missouri State Board of Accountancy

Chapter 2 - General Rules

Proposed Rule - 4 CSR 10-2.051 Registration of Certified Public Accounting Firms

Prepared April 1, 2004 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
Missouri State Board of Accountancy	\$467.73
Total Annual Cost of Compliance for the Life of the Rule	
	\$467.73

III. WORKSHEET

Applications for registration and provisional licensure are processed by the Licensure Technician I who reviews the application, updates the information contained in the licensing computer system and mails the licenses. The Executive I reviews any questions or problems on renewals and provides guidance for resolution.

The board estimates of 90 applications for registration and 10 applications for provisional licensure will be received annually. The board estimates the Executive I will assist with 10 applications annually. The figures below represent costs paid by the State Board of Accountancy for implementation of this rule.

Employee's salaries were calculated using the annual salary multiplied by 40.47% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications or renewals.

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPLICATION	TOTAL COST
Licensure Technician II	\$18,732.00	\$25,119.61	\$12.08	\$0.20	15 minutes	\$3.02	\$301.92
Executive I	\$30,192.00	\$40,487.47	\$19.47	\$0.32	2.00	\$2.27	\$22.71

Total Personal Service Costs \$324.63

Expense and Equipment Dollars for Initial Applications

Application Printing	\$0.25
Envelope for Mailing Application	\$0.16
Postage for Mailing Application	\$0.32
Printing Permit	\$0.35
Envelope for Mailing Permit	\$0.16
Postage for Mailing Permit	\$0.35
Total Expense and Equipment Cost per Application:	\$1.59

Total Expense and Equipment Costs \$143.10

IV. ASSUMPTION

1. The above figures were based on FY03 actuals. The board anticipates the annual number of firms will remain constant for the life of the rule.
2. The board does not currently charge a fee for a Notice of Change of Address, Notice of a New Office, Notice of Change of Resident Manager, or Notice of Closing of an Office. A Notice of New Office and a change of shareholders requires an application to complete an initial application form and pay all applicable fees. Applicants applying for a new office have been calculated in the fiscal note for 4 CSR 10-2.072.
3. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

PRIVATE ENTITY FISCAL NOTE

I. RULE NUMBER

Title 4 -Department of Economic Development

Division 10 - Missouri State Board of Accountancy

Chapter 2 - General Rules

Proposed Amendment - 4 CSR 10-2.051 Registration of Certified Public Accounting Firms

Prepared April 1, 2004 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
90	Licensees (registration of certified public accounting firms @ \$90)	\$8,100.00
10	Applicants (provisional license @ \$150)	\$1,500.00
100	Licensees (postage @ \$.37)	\$37.00
	Estimated Annual Cost of Compliance for the Life of the Rule	\$8,137.00

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of Chapter 326, RSMo. Pursuant to Section 326.319, RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 326, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 326, RSMo. This proposed amendment is necessary because the board's projected revenue will not support the expenditures necessary to enforce and administer the provisions of Chapter 326, RSMo, which will result in an endangerment to the health, welfare, and safety of the public.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

PROPOSED AMENDMENT

4 CSR 10-2.061 Requirements for an Initial [Permit] License to Practice. The board is amending the title, purpose, proposing to delete sections (1)–(10), add a new section (1), renumber the remaining sections accordingly and amend the newly renumbered section (6).

PURPOSE: This rule is being amended to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

PURPOSE: This rule sets forth the type of work experience that is required for a certified public accountant to obtain or receive an initial [permit] license to practice in Missouri [and the supervision that must be provided to the applicant for that experience to be acceptable].

[(1) Except as provided in sections (2) and (3) of this rule, the two (2)-year public accounting experience requirement for a permit provided by section 326.210.1(1), RSMo shall consist solely of experience gained in the performance of activities generally performed by certified public accountants (C.P.A.s) including, but not limited to, financial audits, reviews, compilations, management audits, operational audits, compliance audits, management advisory or consulting services, tax advisory services, tax return preparation and financial planning services, under the level of supervision set forth in section (5) of this rule.

(2) The provisions of sections (1) and (3) of this rule notwithstanding, the board shall accept as fulfillment of the experience requirement provided for by section 326.210.1(1) RSMo—

(A) Two (2) years' experience gained by an applicant while employed full-time by the Missouri state auditor, Missouri state treasurer, Missouri secretary of state or any department created by Article IV of the Constitution of Missouri or any governmental unit transferred to a state department by a type III transfer under the Omnibus Reorganization Act of 1974 or an appropriation committee of the Missouri general assembly, provided that the elected state office holder, department director, transferred governmental unit head or appropriations staff director or the equivalent, as the case may be, holds a certificate and live permit from this or another state as a C.P.A. and provided the level of supervision required by section (5) of this rule and the applicant's experience is gained in an agency which complies with the requirements set forth in 4 CSR 10-2.112; and

(B) Two (2) years' experience gained by an applicant while employed full-time by a federal audit agency or in the office of an inspector general in an occupational code of 510, 511, 512 or the equivalent, provided the applicant's supervisor is a grade GM-15 or above and holds a certificate and permit from this or another state as a C.P.A. and provides the level of supervision required by section (5) of this rule and the applicant's experience is gained in an agency which complies with the requirements set forth in 4 CSR 10-2.112.

(3) Except as provided in subsections (2)(A) and (B) of this rule, the four (4)-year governmental accounting experience requirement for a permit provided by section 326.210.1(3), RSMo shall consist solely of experience gained in the per-

formance of the activities generally performed in governmental accounting, budgeting or auditing, including auditing of tax returns, as a state employee of Missouri, a political subdivision of this state or of the United States government, when the previously mentioned activities have been performed under the level of supervision set forth in section (5) of this rule and when the applicant's experience is gained in an office or unit which complies with the requirements set forth in 4 CSR 10-2.112.

(4) The four (4) years' experience requirement provided for by section 326.210.1(4), RSMo shall consist of experience gained in the performance of activities as an accountant for a corporation, partnership or other business entity. These activities shall include, but not be limited to, general accounting, internal audits, operational audits, tax advisory services and tax return preparation, which must have been performed as an employee in a department, division or unit of a nongovernmental business entity under the level of supervision as set forth in section (5) of this rule. The department, division or unit must have, as principal functions within the corporation, partnership or other business entity, those functions commonly associated with accountants, other financial or fiscal officers, or both, as described in this rule.

(5) Supervision as used in section 326.210, RSMo shall mean personal supervision provided by a C.P.A. holding a live permit to practice from this or another state who is involved in directing the efforts of the applicant. Elements of supervision shall include planning, administration, instruction of assistants, keeping informed of significant problems encountered and reviewing the work performed.

(6) The two (2)-year experience requirement for a permit provided by section 326.210.1(2), RSMo shall consist of experience gained in the full-time, legal practice of public accounting in another state as a C.P.A. while holding a live permit in the other state. The experience shall consist solely of the performance of activities generally performed by C.P.A.s including, but not limited to, financial audits, compliance audits, management advisory or consulting services, tax advisory services, tax return preparation and financial planning services.

(7) The two (2)-year public accounting experience requirement for a permit to practice may be fulfilled by a part-time employment with two thousand (2000) hours of part-time work considered to be equivalent to one (1) year of full-time employment. The board will not accept more than forty (40) hours of part-time work in any week. Each applicant who relies on experience gained through part-time work shall file with the board a schedule listing the number of hours worked each week. The schedule shall be signed by a C.P.A. who is the applicant's employer or supervisor.

(8) An internal revenue agent applying for a permit to practice may fulfill the experience requirement by obtaining one (1) year of public accounting experience as set forth in this rule, provided the applicant has at least four (4) years' experience as an employee of the federal government as an internal revenue agent in the Internal Revenue Service (IRS), of which at least two (2) years is certified by a district director of IRS as having been of field agent experience at the journeyman level, grade GS-512-11 or above, as specified in the United States Civil Service Commission's qualification standard as of December 1, 1975.

(9) *Periods of experience qualifying under subsections 326.210.1(1), (2), (3) and (4), RSMo may be combined to meet the requirements of section 326.210.1, RSMo as long as the total time credited is equal to or greater than the higher of the required times in the subsections that apply to the definition of the type of experience. Experience under the provisions of section 326.210.1(3), RSMo relating to internal revenue agents shall not be combined with any other experience under this rule.*

(10) *The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction.*

(1) **Applicants for initial licensure shall meet the education requirements outlined in 4 CSR 10-2.041 and successfully complete the examination requirements as outlined in 4 CSR 10-2.150.**

[(11)] (2) *[On or after August 28, 2001 t]The board shall require as a condition for licensure, the verification of experience as provided for by section 326.280.1(6), RSMo. A licensee from this or another state shall verify on a form provided by the board:*

(A) The applicant has one (1) year of **accounting** experience consisting of full-time employment that is no less than one (1) year and no fewer than two thousand (2,000) hours or in the case of part-time employment, experience that extends over a period of no less than one (1) year and no more than three (3) years and includes no fewer than two thousand (2,000) hours of performance of services as described in section 326.280.1(6), RSMo; and

(B) The applicant has acceptable experience, which may include employment in industry, government, academia or public practice. The board may look at such factors as the complexity and diversity of the work as set forth in the experience verification section of the initial application form.

[(12)] (3) In accordance with section 326.289.4(3), RSMo any individual licensee who was initially licensed on or after August 28, 2001, and who is responsible for supervising attest services or signs or authorizes someone to sign attestation reports on behalf of a firm, shall have an additional year of experience, which includes attest services, consisting of full-time employment that is no less than one (1) year and no fewer than two thousand (2,000) hours or in the case of part-time employment, experience that extends over a period of no less than one (1) year and no more than three (3) years and includes no fewer than two thousand (2,000) hours of performance of services. The experience shall be under the supervision of a licensee from this or another state. The experience shall consist of either:

(A) Practicing public accounting in a *[registered]* **certified public** accounting firm; or

(B) Practicing as an auditor, employed by a local, state, or federal government entity, devoted principally to the comprehensive application of generally accepted accounting principles or generally accepted government auditing standards to diversified field examinations.

[(13)] (4) In accordance with section 326.289.4(3)/(4), RSMo any licensee who was initially licensed on or after August 28, 2001, and who is responsible for supervising, or signs or authorizes someone to sign review *[or compilation]* reports shall have a year of experience consisting of full-time employment that is no less than one (1) year and no fewer than two thousand (2,000) hours or in the case of part-time employment, experience that extends over a period of no less than one (1) year and no more than three (3) years and includes no fewer than two thousand (2,000) hours of performance of services as described in section 326.280.1(6), RSMo. Acceptable experience

shall include employment in industry, government, academia or public practice.

[(14) *Evidence of Applicant's Experience.*]

[(A)](5) Any licensee who has **direct access and knowledge of an applicant's experience and who** has been requested by an applicant to submit to the board evidence of the applicant's experience and has refused to do so shall, upon request by the board, explain *[in writing or in person]* the basis for such refusal **in a written submission.**

[(B)] The board may require any licensee who has *[furnished evidence of an]* **verified the** applicant's experience to substantiate the information **in a written submission.**

[(C)] Any applicant may be required to appear before the board to supplement or verify evidence of experience.

[(D)] The board may inspect **applicant-provided** documentation relating to *[an]* the applicant's claimed experience.

(6) **Satisfactory completion of a written examination in professional ethics acceptable to the board shall be required for issuance of a Missouri license as a certified public accountant (CPA).**

(A) **Verification that the applicant has received a score of ninety percent (90%) on the examination of the correspondence course on professional ethics for CPAs of the American Institute of Certified Public Accountants shall satisfy this requirement.**

(B) **Applicants applying for a license as a CPA under section 326.280, RSMo can satisfy this requirement by submitting verification that they have passed a written examination on professional ethics approved by the Missouri State Board of Accountancy where they hold a valid license.**

(7) **The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.**

AUTHORITY: sections 326.262 and 326.280[.1(6) and 326.289.4(3)], RSMo Supp. [2001] 2003. Original rule filed Sept. 13, 1978, effective Jan. 13, 1979. For intervening history, please consult the Code of State Regulations. Amended: Filed April 5, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

PROPOSED RESCISSION

4 CSR 10-2.062 Evidence of Work Experience Required for an

Initial Permit to Practice. This rule set forth the evidence of experience required from applicants for an initial permit to practice.

PURPOSE: This rule is being rescinded to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

AUTHORITY: sections 326.110, RSMo Supp. 1996 and 326.170, RSMo 1994. Original rule filed Sept. 3, 1986, effective Feb. 28, 1987. Amended: Filed July 19, 1993, effective Jan. 31, 1994. Amended: Filed Dec. 16, 1996, effective June 30, 1997. Rescinded: Filed April 5, 2004.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 10—Missouri State Board of Accountancy Chapter 2—General Rules

PROPOSED AMENDMENT

4 CSR 10-2.070 Renewal of [Permits] Licenses. The board is proposing to amend the Purpose, section (1), delete section (2), renumber the remaining sections accordingly, amend the newly renumbered sections (2)–(6), add new language in section (7) and delete the form that immediately follows this rule in the *Code of State Regulations*.

PURPOSE: This rule is being amended to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly. This amendment also deletes the form that immediately follows this rule in the Code of State Regulations.

PURPOSE: This rule clarifies requirements of the statutes pertaining to the renewal of the [permit] license to practice public accounting by certified public accountants and public accountants in this state.

(1) *[Individuals. Permits] Licenses* shall be issued for a licensing period of *[one (1)] two (2)* years beginning on October 1 and expiring on September 30 and shall be renewed *[annually] biennially*.

[(2) Partnerships, Limited Liability Companies and Professional Corporations. Permits shall be issued for a licensing period of one (1) year beginning on November 1 and expiring on October 31 and shall be renewed annually.]

[(3)] (2) Each certified public accountant (CPA) *[or public accountant]* shall provide the board with the following information at the time of application for renewal of *[his/her] his or her* individual *[permit] license* to practice:

- (A) *[r/Residence address;*
- (B) *[b/Business connection or employer;*
- (C) *[b/Business address;*

(D) Verification that the individual has met the Continuing Professional Education (CPE) requirements as described in Chapter 4;

(E) *[d/Details* regarding any conviction of any criminal offense other than a traffic violation;

(F) *[d/Details* regarding any suspension, revocation or cancellation of the certificate or permit to practice by any jurisdiction; details regarding any suspension, revocation or restriction of *[his/her] his or her* right to practice by the Internal Revenue Service, Securities Exchange Commission or any other federal or state agency;

(G) *[d/Details* regarding any judgments rendered against the licensee for professional malpractice; and

(H) *[d/Details* regarding any willful violation of the rules and standards of professional conduct governing the practice of public accounting.

(I) Each licensee shall notify the board in writing within thirty (30) days of any change occurring during the renewal period.

[(4)] (3) [All employees, representatives and agents practicing public accounting in Missouri and all Missouri resident partners, members, managers and shareholders of firms, partnerships, limited liability companies, and professional corporations who hold Missouri certificates are required to have live permits to practice.] All employees, representatives and agents practicing public accounting in Missouri and all Missouri resident partners, members, managers and shareholders of certified public accounting firms who hold Missouri certificates issued under prior law or any individual who received an initial license after August 28, 2001 is required to have an active Missouri license to practice in a certified public accounting firm.

[(5)](4) [Permit] License renewal applications will be mailed to each licensee at the last known address at least thirty (30) days before the *[permit] license* expiration date. Failure to receive this notice does not relieve the licensee of the obligation *[annually] biennially* to renew the *[permit] license* to practice.

[(6)](5) An applicant who has allowed *[his/her permit] his or her license* to expire because *[s/he] he or she* was not employed in public accounting in Missouri and who is reentering the practice of public accounting in Missouri shall apply for a *[permit] license* to practice within sixty (60) days of the date *[s/he] he or she* reenters public accounting. If an application for a *[permit] license* to practice is not received by the board within sixty (60) days after the date the applicant reenters the practice of public accounting in Missouri, the applicant is required to pay the *[permit] license* fee plus a delinquent fee *[for each month or portion of a month for which a permit is required]*.

[(7)](6) Before a current *[permit] license* to practice will be issued, an applicant must pay all required fees and penalties, which *[s/he] he or she* has not paid previously, for all years the applicant was engaged in the practice of public accounting in Missouri *[subsequent to October 13, 1967]*. No *[permit] license* shall be issued or reinstated until *[the application is approved by the board and]* all required fees and penalties are paid by the applicant.

(7) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.

AUTHORITY: sections [326.110, RSMo Supp. 1993] 326.262, 326.286 and 620.010.15(2), RSMo [1986] Supp. 2003. Original rule filed Sept. 11, 1974, effective Sept. 21, 1974. Rescinded and readopted: Filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed Aug. 6, 1981, effective Dec. 11, 1981. Amended: Filed Feb. 9,

1982, effective May 13, 1982. Amended: Filed March 14, 1984, effective July 12, 1984. Amended: Filed April 18, 1989, effective July 27, 1989. Amended: Filed Oct. 13, 1993, effective May 9, 1994. Amended: Filed April 5, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

PROPOSED RULE

4 CSR 10-2.072 Renewal of a Certified Public Accounting Firm Permit

PURPOSE: This rule establishes requirements pertaining to the issuance and renewal of the permit to practice public accounting by certified public accounting firms.

(1) Each office established, registered or maintained for the practice of public accounting by a certified public accountant (CPA) or certified public accounting firm, out of which a CPA practices or offers to practice public accounting shall obtain a permit with the board annually. Renewal shall be on a form provided by the board and shall include the name and license number of the resident manager of each office.

(2) Firm permits shall be issued for a period of one (1) year beginning on November 1 and expiring on October 31 and shall be renewed annually.

(3) Permit renewal applications will be mailed to each applicant at the last known address, provided to the board, at least thirty (30) days before the permit expiration date. Failure to receive this notice does not relieve the firm of the annual obligation to renew the permit to practice. Failure to renew timely may cause the board to assess additional penalties as provided in 4 CSR 10-2.160.

(4) Each certified public accounting firm shall provide the board annually with a completed renewal application form provided by the board and pay all applicable fees as determined by the board.

(5) As a part of the annual renewal of each office established and maintained for the practice of public accounting or out of which a CPA practices or offers to practice public accounting, the sole practitioner or partner, president or managing officer of a certified public accounting firm, shall affirm that:

(A) All of his or her employees, its resident partners or its members and managers, shareholders in Missouri, or any combination of these, who are Missouri CPAs have applied for a current license to practice public accounting; and

(B) All of his or her employees, its resident partners, its members and managers or shareholders in Missouri, or any combination of these, who hold a CPA license issued by another state have applied for a Missouri CPA license by reciprocity or by provisional licensure through substantial equivalency.

(6) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.

AUTHORITY: sections 326.262 and 326.289, RSMo Supp. 2003. Original rule filed April 5, 2004.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions an estimated one thousand four hundred eighty-nine dollars and twenty-three cents (\$1,489.23) annually for the life of the rule. It is anticipated that the total annual cost will recur for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

PRIVATE COST: This proposed rule will cost private entities an estimated one hundred eight thousand four hundred forty-four dollars (\$108,444) annually for the life of the rule. It is anticipated that the total annual cost will recur for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

PUBLIC ENTITY FISCAL NOTE

I. RULE NUMBER

Title 4 -Department of Economic Development

Division 10 - Missouri State Board of Accountancy

Chapter 2 - General Rules

Proposed Rule - 4 CSR 10-2.072 Renewal of a Certified Public Accounting Firm Permit

Prepared April 1, 2004 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
Missouri State Board of Accountancy	\$1,489.23
Total Annual Cost of Compliance for the Life of the Rule	
	\$1,489.23

III. WORKSHEET

Renewal applications are received and processed by the division's central processing unit. The board transfers approximately \$1,374 from their fund to the division annually for the processing of renewals for public accounting firms. Applications needing clarification are forwarded to the board for review by the Licensure Technician I who reviews the application, prepares correspondence, addresses the issue via a telephone call, updates the information in the licensing computer system and mails the licenses. The Executive I reviews any questions or problems on renewals and provides guidance for resolution.

The board estimates of 1,200 renewal applications will be received annually and 90 of those applications will be forwarded to the board office annually for processing. Of those 90 applications processed in the office, the Executive I will assist with approximately 15 applications. The figures below represent costs paid by the State Board of Accountancy for implementation of this rule.

Employee's salaries were calculated using the annual salary multiplied by 40.47% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications or renewals.

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPLICATION	TOTAL COST
Licensure Technician II	\$18,732.00	\$25,119.61	\$12.08	\$0.20	5 minutes	\$1.01	\$90.90
Executive I	\$30,192.00	\$40,487.47	\$19.47	\$0.32	5 minutes	\$1.62	\$24.33

Total Costs \$1,489.23

IV. ASSUMPTION

1. The above figures were based on FY03 actuals. The board anticipate the number of firms renewing will remain constant for the life of the rule.
2. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

PRIVATE ENTITY FISCAL NOTE

I. RULE NUMBER

Title 4 -Department of Economic Development

Division 10 - Missouri State Board of Accountancy

Chapter 2 - General Rules

Proposed Rule - 4 CSR 10-2.072 Renewal of a Certified Public Accounting Firm Permit

Prepared April 1, 2004 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
1200	Licenseses (annual renewal @ \$90)	\$108,000.00
1200	Licenseses (postage @ \$.37)	\$444.00
	Estimated Annual Cost of Compliance for the Life of the Rule	\$108,444.00

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of Chapter 326, RSMo. Pursuant to Section 326.319, RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 326, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 326, RSMo. This proposed amendment is necessary because the board's projected revenue will not support the expenditures necessary to enforce and administer the provisions of Chapter 326, RSMo, which will result in an endangerment to the health, welfare, and safety of the public.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

PROPOSED AMENDMENT

4 CSR 10-2.075 Reinstatement of [Permits] License to Practice.

The board is proposing to amend the original Purpose statement, delete section (1), add new sections (2) and (5), amends section (2), (3), and (4) and delete the form that immediately follows this rule in the *Code of State Regulations*.

PURPOSE: This rule is being amended to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly. This amendment also deletes the form that immediately follows this rule in the Code of State Regulations.

PURPOSE: This rule establishes requirements for reinstatement of a [permit] license to practice. [It specifies that if more than two years have elapsed since the expiration of the applicant's original permit, s/he must have completed one hundred twenty hours of continuing education courses in the three years prior to application. The rule is intended to assure that licensees have kept up to date with changes in the profession.]

[(1) The holder of a certificate issued under section 326.060, RSMo whose permit has expired and who has not renewed his/her permit within two (2) years after the expiration date may apply for reinstatement of his/her permit.]

[(2)] (1) The board shall not reinstate the [permit] license of any [certificate holder if more than two (2) years have elapsed since the expiration of his/her permit] licensee unless—

(A) That person submits evidence to the board that [s/he] he or she has completed one hundred twenty (120) hours of continuing professional education during the three (3) years previous to making application for reinstatement of the [permit] license with not less than twenty (20) hours in the year immediately preceding the date of application for reinstatement; or

(B) That person agrees to a regular program to obtain the required one hundred twenty (120) hours of continuing professional education within one (1) year of applying for reinstatement.

(2) In the event of application for reinstatement of a license to practice, wherein the license had been previously suspended or revoked by the board, the board may modify the earlier discipline by placing requirements or restrictions upon the reinstated license. Such modifications may include probation, preissuance reviews, and other such requirements as permitted by law and determined by the board.

(3) Continuing education courses required under section (2) of this rule shall comply with the provisions of the current continuing education requirements as set forth in [4 CSR 10-4.020, 4 CSR 10-4.030, and 4 CSR 10-4.040 and 4 CSR 10-4.050(4)] 4 CSR 10-4.011.

(4) No [permit] license shall be reinstated until the applicant pays all required fees and penalties, which [s/he] he or she has not paid previously, for any periods during which [s/he] he or she was practicing public accounting in Missouri.

(5) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full

force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.

AUTHORITY: sections [326.110, RSMo Supp. 1995] 326.262, 326.286, 326.310, 326.316 and 620.149, RSMo Supp. 2003. Original rule filed June 13, 1984, effective Oct. 11, 1984. Amended: Filed July 15, 1985, effective Dec. 12, 1985. Amended: Filed Jan. 26, 1995, effective July 30, 1995. Amended: Filed Sept. 4, 1996, effective March 30, 1997. Amended: Filed April 5, 2004.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions an estimated twenty-five dollars and thirty-two cents (\$25.32) annually for the life of the rule. It is anticipated that the total annual cost will recur for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

PRIVATE COST: This proposed amendment will cost private entities an estimated seven hundred one dollar and eighty-five cents (\$701.85) annually for the life of the rule. It is anticipated that the total annual cost will recur for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.*

PUBLIC ENTITY FISCAL NOTE

I. RULE NUMBER

Title 4 -Department of Economic Development

Division 10 - Missouri State Board of Accountancy

Chapter 2 - General Rules

Proposed Amendment - 4 CSR 10-2.075 Reinstatement of License to Practice

Prepared April 1, 2004 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
Missouri State Board of Accountancy	\$25.32
Total Annual Cost of Compliance for the Life of the Rule	
	\$25.32

III. WORKSHEET

Applications for reinstatement are processed by the Licensure Technician I who reviews the application, updates the information contained in the licensing computer system and mails the licenses. The Executive I reviews any questions or problems on renewals and provides guidance for resolution.

The board estimates 5 applications for reinstatement will be received annually. The board estimates the Executive I will assist with 1 application annually. The figures below represent costs paid by the State Board of Accountancy for implementation of this rule.

Employee's salaries were calculated using the annual salary multiplied by 40.47% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications or renewals.

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPLICATION	TOTAL COST
Licensure Technician II	\$18,732.00	\$25,119.61	\$12.08	\$0.20	15 minutes	\$3.02	\$15.10
Executive I	\$30,192.00	\$40,487.47	\$19.47	\$0.32	\$2.00	\$2.27	\$2.27

Total Personal Service Costs \$17.37

Expense and Equipment for Initial Applications

Application Printing	\$0.25
Envelope for Mailing Application	\$0.16
Postage for Mailing Application	\$0.32
Printing Permit	\$0.35
Envelope for Mailing Permit	\$0.16
Postage for Mailing Permit	\$0.35
Total Expense and Equipment Cost per Application:	\$1.59

**Total Expense and Equipment Costs
(for 5 applications for reinstatement) \$7.95**

IV. ASSUMPTION

1. Currently the board process approximately 5 applications for reinstatement annually. The board estimates that delinquent fees average approximately \$50 per applicant. In recent years the number of firms practicing without a license has decreased due to the board's auditing process and with the implementation of peer review the board anticipates the number will continue to decrease.
2. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

PRIVATE ENTITY FISCAL NOTE**I. RULE NUMBER****Title 4 -Department of Economic Development****Division 10 - Missouri State Board of Accountancy****Chapter 2 - General Rules****Proposed Amendment - 4 CSR 10-2.075 Reinstatement of License to Practice**

Prepared April 1, 2004 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
5	Licenseses (reinstatement of license @ \$90 + an average of \$50 delinquent fees)	\$700.00
5	Licenseses (postage @ \$.37)	\$1.85
	Estimated Annual Cost of Compliance for the Life of the Rule	\$701.85

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. Currently the board process approximately 5 applications for reinstatement annually. The board estimates that delinquent fees average approximately \$50 per applicant. In recent years the board has been decreasing the number of firms practicing without a license and with the implementation of peer review anticipates the number will continue to decrease.
2. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of Chapter 326, RSMo. Pursuant to Section 326.319, RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 326, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 326, RSMo. This proposed amendment is necessary because the board's projected revenue will not support the expenditures necessary to enforce and administer the provisions of Chapter 326, RSMo, which will result in an endangerment to the health, welfare, and safety of the public.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

PROPOSED AMENDMENT

4 CSR 10-2.095 Ownership of CPA Firms. The board is proposing to amend the original Purpose statement, amend sections (1)–(3) and add new sections (4) and (5).

PURPOSE: This rule is being amended to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

PURPOSE: This rule clarifies the statutes pertaining to ownership of certified public accounting firms [of certified public accountants and public accountants].

(1) Limited Liability Companies (L.L.C.).

(A) Ownership. Only the following may have a member's interest in a L.L.C.:

1. *[Natural persons who hold both a certificate as a C.P.A. and a current permit to practice public accounting issued by this state, another state or territory of the United States or the District of Columbia, or any state, country or province of another country, if the other state or country or province of another country grants reciprocity licensure to holders of C.P.A. certificates issued by this state;] A majority ownership shall consist of natural persons who hold a license as a certified public account (CPA) to practice public accounting issued by this state, another state or territory of the United States or the District of Columbia, or any state, country or province of another country, or holds a foreign designation recognized by the board to be substantially equivalent if the other state or country or province of another country grants reciprocity licensure to holders of CPA licenses issued by this state. A minority ownership shall consist of natural persons who are active individual participants in the firm or affiliated entities;*

2. *[Domestic or foreign general partnerships, including limited liability partnerships, in which all of the partners hold both a certificate as a C.P.A. and a current permit to practice public accounting issued by this state, another state or territory of the United States, the District of Columbia or any other country or state or province of another country, if the other country or state or province of another country grants reciprocity licensure to holders of C.P.A. certificates issued by this state;] Domestic or foreign general partnerships, including limited liability partnerships, in which all of the partners who have a majority of ownership hold an active license as a CPA to practice public accounting issued by this state, another state or territory of the United States, the District of Columbia or any other country or state or province of another country, or holds a foreign designation recognized by the board to be substantially equivalent, if the other country or state or province of another country grants reciprocity licensure to holders of CPA licenses issued by this state. A minority ownership shall consist of natural persons who are active individual participants in the firm or affiliated entities;*

3. Professional corporations holding a permit to practice public accounting issued by this state or foreign professional corporations authorized by law in this state to practice public accounting. All shareholders of either a domestic or foreign professional corporation shall own their shares in their own right and shall be the beneficial owners of the equity capital ascribed to them;

4. Limited liability companies (L.L.C.) holding a permit to practice public accounting issued by this state or foreign L.L.C. authorized by law in this state to practice public accounting, **provid-**

ed that all non-CPA members are active individual participants in the firm or affiliated entities. All members of either a domestic or foreign L.L.C. shall own their member's interest in their own right; and

5. Trusts, created pursuant to revocable trust agreements, of which the trustee is a natural person who holds a *[certificate as a C.P.A. and a permit] license as a CPA* to practice public accounting issued by this state, another state or territory of the United States or District of Columbia, provided that the trustee is also the settler and beneficiary of the trust during *[his/her] his or her* lifetime. *[and that all trustees of the trust, i]If there are multiple trustees, a majority shall hold a [certificate as a C.P.A. and a permit] license as a CPA* to practice public accounting issued by this state, another state or territory of the United States or the District of Columbia. **Any trustees who are not licensed CPAs shall be active individual participants in the firm.**

(B) Transfer of Member's Interest. Provisions shall be made in the Articles of Organization or in Restated Articles of Organization and in any merger or consolidation document, which shall require that a member who, for whatever reasons, ceases to be eligible to be a member to dispose of all of *[his/her] his or her* membership interest within a reasonable period of time to a person qualified to be a member or to the L.L.C.

(2) Professional Corporations.

(A) Ownership. A professional corporation may issue shares only to the following:

1. Natural persons who hold a *[certificate as a C.P.A. and a current permit] current license as a CPA* to practice public accounting issued by this state, another state or territory of the United States or the District of Columbia, or any other country or state or province of another country, **or holds a foreign designation recognized by the board to be substantially equivalent**, if the other country or state or province of another country grants reciprocity licensure to holders of *[C.P.A. certificates] a CPA license* issued by this state;

2. Domestic or foreign general partnerships, including limited liability partnerships, in which all of the partners hold *[both] a [certificate as a C.P.A. and a current permit] current license as a CPA* to practice public accounting issued by this state, another state or territory of the United States, the District of Columbia or any other country or state or province of another country, **or holds a foreign designation recognized by the board to be substantially equivalent**, if the other country or state or province of another country grants reciprocity licensure to holders of *[C.P.A. certificates] CPA licenses* issued by this state;

3. Professional corporations holding a permit to practice issued by this state or foreign professional corporations authorized by law in this state to practice public accounting. Shareholders at all times shall own their own shares in their own right and shall be the beneficial owners of the equity capital ascribed to them;

4. Limited liability companies (L.L.C.) holding a permit to practice public accounting issued by this state or foreign L.L.C. authorized by law in this state to practice public accounting. All members of either a domestic or foreign L.L.C. shall own their member's interest in their own right; and

5. Trusts, created pursuant to revocable trust agreements, of which the trustee is a natural person who holds a *[certificate as a C.P.A. and a permit] current license as a CPA* to practice public accounting issued by this state, another state or territory of the United States or District of Columbia, provided that the trustee is also the settler and beneficiary of the trust during *[his/her] his or her* lifetime *[and that all trustees of the trust, i]If there are multiple trustees, [hold a certificate as a C.P.A. and a permit] each shall hold a license* to practice public accounting issued by this state, another state or territory of the United States or the District of Columbia.

(B) Transfer of Shares. Provisions shall be made requiring any shareholder who ceases to be eligible to be a shareholder to dispose of all of [his/her] his or her shares within a reasonable period to a person qualified to be a shareholder or to the corporation or association.

(3) Partnerships[, Sole-Proprietorships, and Other Business Entities] and Limited Liability Partnerships (LLP).

(A) Ownership. A partnership [, sole-proprietorship or other lawful business entity, as the case may be,] or LLP may issue ownership interest only to the following:

1. [Natural persons who hold a certificate as a C.P.A. and a current permit to practice public accounting issued by this state, another state or territory of the United States or the District of Columbia, or any other country or province of another country, if the other country or state or province of another country grants reciprocity licensure to holders of C.P.A. certificates issued by this state;] A majority ownership shall consist of natural persons who hold a license as a CPA to practice public accounting issued by this state, another state or territory of the United States or the District of Columbia, or any state, country or province of another country, or holds a foreign designation recognized by the board to be substantially equivalent, if the other country or state or province of another country grants reciprocity licensure to holders of CPA licenses by this state. A minority ownership shall consist of natural persons who are active individual participants in the firm or affiliated entities;

2. [Domestic or foreign general partnerships, including limited liability partnerships, in which all the partners hold both a certificate as a C.P.A. and a current permit to practice public accounting issued by this state, another state or territory of the United States, the District of Columbia or any other country or state or province of another country, if the other country or state or province of another country grants reciprocity licensure to holders of C.P.A. certificates issued by this state;] Domestic or foreign general partnerships, including limited liability partnerships, in which all the partners who have a majority ownership hold an active license as a CPA to practice public accounting issued by this state, another state or territory of the United States, the District of Columbia or any other country or state or province of another country, or holds a foreign designation recognized by the board to be substantially equivalent, if the other country or state or province of another country grants reciprocity licensure to holders of CPA licenses issued by this state. A minority ownership shall consist of natural persons who are active individual participants in the firm or affiliated entities;

3. Professional corporations holding a permit to practice issued by this state or foreign professional corporations authorized by law in this state to practice public accounting. Shareholders [at all times] of either a domestic or foreign professional corporation shall own their own shares in their own right and shall be the beneficial owners of the equity capital ascribed to them;

4. Limited liability companies (L.L.C.) holding a permit to practice public accounting issued by this state or foreign L.L.C. authorized by law in this state to practice public accounting, **provided that all non-CPA members are active individual participants in the firm or affiliated entities.** All members of either a domestic or foreign L.L.C. shall own their member's interest in their own right; and

5. [Trusts, created pursuant to revocable trust agreements, of which the trustee is a natural person who holds a certificate as a C.P.A. and a permit to practice public accounting issued by this state, another state or territory of the United States or District of Columbia, provided that the trustee is also the settler and beneficiary of the trust during his/her lifetime and that all trustees of the trust; if there are multiple trustees, hold a certificate as a C.P.A. and permit to

practice accounting issued by this state, another state or territory of the United States or the District of Columbia.] Trusts, created pursuant to revocable trust agreements, of which the trustee is a natural person who holds a license as a CPA to practice public accounting issued by this state, another state or territory of the United States or District of Columbia, provided that the trustee is also the settler and beneficiary of the trust during his or her lifetime. If there are multiple trustees, a majority shall hold a license as a CPA to practice accounting issued by this state, another state or territory of the United States or the District of Columbia. Any trustees who are not licensed CPAs shall be active individual participants in the firm.

(B) Transfer of Interest. [Provisions shall be made requiring any interest holder who ceases to be eligible to be an interest holder to dispose of all of his/her interest within a reasonable period to a person qualified to be an interest holder of the firm.] Provisions shall be made in the Articles of Organization or in Restated Articles of Organization and in any merger or consolidated document, which shall require that a member who, for whatever reasons, ceases to be eligible to be a member to dispose of all of his or her membership within a reasonable period to a person qualified to be a member or to the L.L.C.

(4) Sole Proprietorships.

(A) The ownership of a sole proprietorship shall consist of a natural person who holds a license as a CPA to practice public accounting issued by this state, another state, or territory of the United States or the District of Columbia, or any state, country or province of another country if the other state or country or province of another country grants reciprocity licensure to holders of CPA licenses issued by this state.

(5) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.

AUTHORITY: sections [326.021, 326.040 and 326.050, RSMo 1994 and 326.110, RSMo Supp. 1999] 326.262, 326.280 and 326.289, RSMo Supp. 2003. Original rule filed Aug. 31, 2000, effective Feb. 28, 2001. Amended: Filed April 5, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

PROPOSED RESCISSION

4 CSR 10-2.101 Resident Manager. This rule defined the term resident manager.

PURPOSE: This rule is being rescinded because the same language is included in 4 CSR 10-2.005.

AUTHORITY: section 326.110, RSMo Supp. 1993. Original rule filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed Dec. 15, 1983, effective April 12, 1984. Rescinded: Filed April 5, 2004.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

PROPOSED RESCISSION

4 CSR 10-2.111 Registration of Each Office of Public Accounting. This rule clarified the requirements of section 326.055, RSMo regarding annual registration of each office established and maintained for the practice of public accounting or out of which a certified public accountant or public accountant practices or offers to practice public accounting.

PURPOSE: This rule is being rescinded to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

AUTHORITY: sections 326.110, RSMo Supp. 1993 and 326.170, RSMo 1986. Original rule filed Sept. 11, 1974, effective Sept. 21, 1974. Amended: Filed Oct. 3, 1974, effective Oct. 13, 1974. Amended: Filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed April 1, 1986, effective July 11, 1986. Amended: Filed April 14, 1987, effective July 23, 1987. Amended: Filed April 9, 1993, effective Oct. 10, 1993. Amended: Filed Oct. 13, 1993, effective May 9, 1994. Rescinded: Filed April 5, 2004.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

PROPOSED RESCISSION

4 CSR 10-2.112 Registration of Governmental Accounting Offices. This rule established requirements regarding annual registration of each office or unit established and maintained by Missouri, a political subdivision of this state or the United States government, for the practice of governmental accounting, budgeting or auditing including the auditing of tax returns, as specified in section 326.210, RSMo.

PURPOSE: This rule is being rescinded to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

AUTHORITY: sections 326.110, RSMo Supp. 1993 and 326.170, RSMo 1986. Original rule filed Sept. 3, 1986, effective Feb. 28, 1987. Rescinded: Filed April 5, 2004.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

PROPOSED RESCISSION

4 CSR 10-2.115 Display of Permits by Public Accounting Offices. This rule required each public accounting office to display a live permit to practice at all times.

PURPOSE: This rule is being rescinded to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

AUTHORITY: sections 326.110, RSMo Supp. 1993 and 326.170, RSMo 1986. Original rule filed July 10, 1984, effective Dec. 13, 1984. Amended: Filed Oct. 13, 1993, effective May 9, 1994. Rescinded: Filed April 5, 2004.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive

Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 10—Missouri State Board of Accountancy Chapter 2—General Rules

PROPOSED RESCISSION

4 CSR 10-2.120 Ethics Examinations. This rule required candidates for a certificate as a certified public accountant to complete a course of ethics approved by the board.

PURPOSE: This rule is being rescinded to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

AUTHORITY: section 326.110, RSMo Supp. 1993. Original rule filed July 3, 1975, effective July 17, 1975. Amended: Filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed June 13, 1984, effective Oct. 11, 1984. Amended: Filed July 13, 1993, effective Jan. 31, 1994. Rescinded: Filed April 5, 2004.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 10—Missouri State Board of Accountancy Chapter 2—General Rules

PROPOSED AMENDMENT

4 CSR 10-2.130 Applications for Examination. The board is proposing to amend sections (2)–(5) and (8), add new language in section (11) and delete the form that immediately follows this rule in the *Code of State Regulations*.

PURPOSE: This rule is being amended to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly. This amendment also deletes the form that immediately follows this rule in the *Code of State Regulations*.

(2) Items which constitute a complete initial application are—/—: a completed and notarized application form, the appropriate fee, one (1) recent two-inch by two-inch (2" × 2") passport-type photograph of the applicant and certified college transcripts. The applicant is responsible for insuring that transcripts are received by the board or the firm which administers the examination for the board at least thirty (30) days before the examination or the application will be considered incomplete.

(3) [Items which constitute a complete re-examination application are—a completed and notarized application form and the appropriate fee.] Applicants wishing to apply for reexamination must call 1-800-CPA-Exam or register on-line at www.nasba.org and pay the appropriate fee.

(4) Applicants who wish to transfer conditional credit from other jurisdictions must use the initial application form [see 4 CSR 10-2.062] and pay the fee for all parts of the examination. These candidates are responsible for requesting transfer of their grades from the original jurisdiction. The applicant is responsible for insuring that grades from the other jurisdiction are received by the board or the firm which administers the examination for the board at least thirty (30) days before the date of the examination or the application will be considered incomplete. A form for this purpose can be obtained from the board's office or the firm which administers the examination for the board.

(5) Applicants who are applying for examination under the provisions of section [326.060.8] 326.280, RSMo and who expect to satisfy the educational requirements within sixty (60) days after the examination also must submit a certificate of enrollment as required by 4 CSR 10-2.135. The applicant is responsible for insuring that the certificate of enrollment is received by the board or the firm which administers the examination for the board at least thirty (30) days before the date of the examination or the application will be considered incomplete. A form for this purpose can be obtained from the board's office or the firm which administers the examination for the board.

(8) To assist the board in evaluating the educational qualifications of applicants who have degrees from colleges or universities outside the United States of America, these applicants shall have their educational qualifications and transcripts evaluated by a qualified evaluator which has been approved in advance by the board. Names and application forms for approved evaluators may be obtained from the board office. The applicant shall be responsible for paying any fees charged by the [evaluator] evaluator. The applicant is responsible for insuring that, at least thirty (30) days before the date of the examination, the evaluator's report detailing the evaluator's findings is received by the board or the firm which administers the examination for the board or the application will be considered incomplete.

(11) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.

AUTHORITY: sections [326.110, RSMo Supp. 1997 and 326.170, RSMo 1994] 326.262, 326.268 and 326.286, RSMo Supp. 2003. Original rule filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed Dec. 7, 1982, effective March 11, 1983. Amended: Filed March 14, 1984, effective July 12, 1984. Amended: Filed Feb. 5, 1990, effective June 28, 1990. Amended: Filed June 10, 1998, effective Dec. 30, 1998. Amended: Filed April 5, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be

received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

PROPOSED AMENDMENT

4 CSR 10-2.135 Requirements for Applicants for the Examination Who Expect to Satisfy the Educational Requirements Within Sixty Days After the Examination. The board is proposing to amend the Purpose section, sections (1)–(3), add new language in sections (4) and (5) and delete the form that immediately follows this rule in the *Code of State Regulations*.

PURPOSE: This rule is being amended to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly. This amendment also deletes the form that immediately follows this rule in the *Code of State Regulations*.

PURPOSE: This rule specifies the procedure an applicant must follow to demonstrate that [s/he] he or she reasonably expects to satisfy the educational requirements of section 326.060/280.1(4), RSMo.

(1) An applicant for examination under the provisions of section [326.060.8]/ 326.280.5, RSMo who expects to satisfy the educational requirements of section [326.060.1]/ 326.280.1, RSMo within sixty (60) days after the date of the examination shall submit with the application a certified copy of [his/her] his or her transcript(s) listing all courses completed.

(2) The applicant shall submit a certificate of enrollment which must be signed by the candidate under oath and notarized or bear the school seal and the signature of the dean, registrar or department head of the college or university in which [s/he] he or she is enrolled. This certificate of enrollment shall list all accounting and business courses the applicant currently is taking and state the anticipated date the courses will be completed, the degree the applicant will be awarded and the date the degree will be conferred. [A form for this purpose can be obtained from the board.] It shall be the applicant's responsibility to submit a certified copy of [his/her] his or her final transcript as evidence that the applicant satisfies the educational requirements.

(3) No [certificates] licenses shall be issued and no grades for any part of the examination shall be issued to any applicant unless the educational requirement, in fact, is met within the sixty (60)-day period.

(4) An applicant for the Uniform CPA Examination who is currently enrolled in college and who will complete all courses and graduation requirements no later than sixty (60) days following the examination, may be permitted to take the examination. In order to determine eligibility, the information required by this rule must be completed and submitted with all transcript(s) at least thirty (30) days prior to the examination.

(5) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.

AUTHORITY: sections [326.110, RSMo Supp. 1993 and 326.170, RSMo 1986]/ 326.262, 326.268 and 326.280, RSMo

Supp. 2003. Original rule filed Sept. 6, 1983, effective Jan. 13, 1984. Amended: Filed Feb. 5, 1990, effective June 28, 1990. Amended: Filed April 5, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

PROPOSED AMENDMENT

4 CSR 10-2.140 Granting of Credit for the Examination. The board is proposing to amend section (1), add new language in subsection (2)(E), amend sections (3), (4), (6) and (8), add new language in sections (9)–(10) and (13), and renumber the remaining sections accordingly.

PURPOSE: This rule is being amended to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

(1) A candidate who passes two (2) parts of the exam [or practice prior to the May 1994 examination,] and receives a score of fifty percent (50%) or more on the remaining parts of the examination at one (1) sitting shall be granted conditional credit for the part(s) of the examination passed. The conditional credit shall expire unless the candidate is granted credit for passing all remaining parts of the examination within the next six (6) regularly scheduled examinations. A candidate may add conditional credit of additional parts by passing one (1) or more parts of the exam and by receiving a score of fifty percent (50%) or more on any parts [s/he] he or she did not pass. Adding to conditional credit shall not extend the time limit of the condition.

(2) Candidates who were granted credit for passing parts of the examination prior to the May 1994 examination are deemed to have been granted conditional credit according to the following guidelines:

(C) Credit granted for passing accounting theory prior to May 1994 shall be retained as credit for financial accounting and reporting—business enterprises (FARE) until either remaining sections are passed or credit expires under this rule; [and]

(D) Credit granted for passing accounting practice prior to May 1994 shall be retained as credit for accounting reporting—taxation, managerial and governmental and not-for-profit organizations (ARE) until either remaining sections are passed or credit expires under this rule.; and

(E) Candidates who passed the practice section prior to May 1994 shall be considered to have passed two (2) parts for the purpose of determining conditioning.

(3) A candidate shall be deemed to have passed the certified public accountant examination when [s/he] he or she has been granted credit for all four (4) parts of the examination.

(4) In addition to the conditions set out in sections (1) and (2) of this rule, a grade of at least seventy-five percent (75%) is required to pass any part. **After the November 2003 written examination, applicants are required to pass the computer-based Uniform CPA Examination.**

(6) An applicant who */is/* was not required to take one (1) or more parts of the examination prior to May 1994 because of being licensed by this state as an attorney-at-law will not be required to pay the fee for that part(s) of the examination. Conditional credit granted under this section shall expire at the time of the May 1994 examination *for as provided in section (1) of this rule, whichever occurs first*.

(8) A candidate must sit for all parts of the examination for which */s/he/* the candidate has not already been granted conditional credit by this state.

(9) Candidates who have attained conditional status as of the launch date of the computer-based Uniform CPA Examination will be allowed a transition period to complete any remaining sections of the CPA examination. The transition period is the period of time or maximum number of opportunities (whichever is first exhausted) the candidates who have conditioned under the paper-and-pencil examination have remaining, at the launch of the computer-based CPA examination, to complete all remaining sections.

(10) If a previously conditioned candidate does not pass all remaining sections during the transition period, conditioned credits earned under the paper-and-pencil examination will expire and the candidate will lose credit for the sections earned under the paper-and-pencil examination. However, any section passed during the transition period is subject to the conditioning provisions of the computer-based examination as indicated in the aforementioned conditioning recommendation, except that a previously conditioned candidate will not lose conditional credit for a section of the computer-based examination that is passed during the transition period, even though more than eighteen (18) months may have elapsed from the date the section is passed, until the end of the transition period.

(11) After the launch date of the uniform computer-based examination when a candidate first passes one (1) or more sections of the CPA examination the candidate must pass any remaining sections within eighteen (18) months. In the event all four (4) sections of the Uniform CPA Examination are not passed within the rolling eighteen (18)-month period, credit for any section(s) passed outside the eighteen (18)-month period will expire and that section(s) must be retaken.

/[9]/(12) No information pertaining to grades or passing or failing of candidates shall be given to anyone by telephone.

(13) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.

AUTHORITY: sections [326.060 and 326.170, RSMo 1986, and 326.110, RSMo Supp. 1993] 326.262, 326.268 and 326.280, RSMo Supp. 2003. Original rule filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed Oct. 16, 1979, effective Feb. 11, 1980. Amended: Filed July 10, 1984, effective Dec. 13, 1984. Amended: Filed April 9, 1993, effective Oct. 10, 1993. Amended: Filed April 5, 2004.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions an estimated nineteen dollars and forty-seven cents (\$19.47) annually for the life of the rule. It is anticipated that the total annual cost will recur for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

PUBLIC ENTITY FISCAL NOTE

I. RULE NUMBER

Title 4 -Department of Economic Development

Division 10 - Missouri State Board of Accountancy

Chapter 2 - General Rules

Proposed Rule - 4 CSR 10-2.140 Granting of Credit for the Examination

Chapter 3 - Seals

Prepared April 1, 2004 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
Missouri State Board of Accountancy	\$19.47
Total Annual Cost of Compliance for the Life of the Rule	
	\$19.47

III. WORKSHEET

Examination scores are received from the testing service approximately 4 times a year on a disk. Upon receipt of the examination scores, the Executive 1 will load the tape into the division's computerized licensing system. The figures below represent costs paid by the State Board of Accountancy for implementation of this rule.

Employee's salaries were calculated using the annual salary multiplied by 40.47% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications or renewals. The total cost was based on the cost per application multiplied by the estimated number of applications or renewals.

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER EXAM	TOTAL COST
Executive 1	\$30,192.00	\$40,487.47	\$19.47	\$0.32	15 minutes	\$4.87	\$19.47

IV. ASSUMPTION

1. The above figures were based on FY03 actuals. The board anticipate the number of firms renewing will remain constant for the life of the rule.
2. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

PROPOSED AMENDMENT

4 CSR 10-2.150 Examination Procedures. The board is proposing to amend sections (2), (5), (6) and (8) and add new language in section (11).

PURPOSE: This rule is being amended to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

(2) Examinations shall be held in the months of May and November *[on]* of each year in a location designated by the board. Notice of the time and place of the examination shall be mailed to each candidate whose application to sit for the examination has been filed with and approved by the board.

(5) A candidate is required to pay a nonrefundable fee for all parts for which *[s/he]* **he or she** has not yet been granted credit by this state. For the purpose of determining the fee, accounting practice is considered two (2) parts until the November 1993 examination, after which each part tested shall be charged as a single part.

(6) A candidate who shall have been found qualified to take the examination and fails to pass the examination shall remain qualified to apply for reexamination if the candidate in the meantime has not committed an act which is grounds to refuse to issue a *[certificate]* license under section *[326.130]* **326.310**, RSMo.

(8) Reference to books, or other matter, by a candidate during the examination or exchange of information with other persons shall be considered fraud or deceit in obtaining a *[certificate]* license.

(11) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.

AUTHORITY: sections [326.110, RSMo 1994] 326.262, 326.268, 326.280 and 326.286, RSMo Supp. 2003. Original rule filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed Oct. 16, 1979, effective Feb. 11, 1980. Amended: Filed Aug. 6, 1981, effective Dec. 11, 1981. Amended: Filed Oct. 22, 1987, effective March 25, 1988. Amended: Filed April 9, 1993, effective Oct. 10, 1993. Amended: Filed April 5, 1995, effective Oct. 30, 1995. Amended: Filed April 5, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

PROPOSED AMENDMENT

4 CSR 10-2.160 Fees. The board is proposing to delete subsection (1)(I) and renumber the remaining subsection, delete section (2) and renumber the remaining sections accordingly.

PURPOSE: This rule is being amended to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

(1) The following fees are established by the Missouri State Board of Accountancy:

*[(I)] Labels of names and addresses of
successful exam candidates \$20.00
plus \$.01 per record
(the purchaser must provide the labels);]*

*[(J)] (I) Proctoring Fee (proctoring exam
candidates for other state boards) \$60.00/.]*

[(2)] For those individuals applying for their initial license to practice prior to October 1, 2002, the fee shall be the full annual amount if the application is received in the board office prior to April 1 and one-half (1/2) the annual amount if the application is received on or after April 1.]

[(3)] (2) All fees are nonrefundable and cannot be applied to another application, except under extraordinary circumstances as determined by the board.

[(4)] (3) The provisions of this rule are declared severable. If any fee fixed by this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction.

AUTHORITY: sections 326.262, 326.271, 326.277, 326.280, 326.283, 326.286 and 326.289, RSMo Supp. [2001] 2003. Emergency rule filed Aug. 6, 1981, effective Aug. 16, 1981, expired Dec. 10, 1981. Original rule filed Aug. 6, 1981, effective Dec. 11, 1981. For intervening history, please consult the Code of State Regulations. Amended: Filed April 5, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 10—Missouri State Board of Accountancy
Chapter 2—General Rules**

PROPOSED RESCISSION

4 CSR 10-2.180 Procedures for Peer Review Hearings. This rule established the procedure to be followed in hearings concerning the peer review required by section 326.055.2, RSMo.

PURPOSE: This rule is being rescinded to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

AUTHORITY: sections 326.055 and 326.170, RSMo 1986 and 362.110, RSMo Supp. 1993. Original rule filed Dec. 11, 1984, effective May 11, 1985. Amended: Filed April 9, 1993, effective Oct. 10, 1993. Rescinded: Filed April 5, 2004.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 10—Missouri State Board of Accountancy Chapter 2—General Rules

PROPOSED RESCISSION

4 CSR 10-2.190 Subpoenas. This rule specified that failure to comply with a lawful subpoena issued by the board constitutes misconduct.

PURPOSE: This rule is being rescinded to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

AUTHORITY: sections 326.110, RSMo Supp. 1993 and 326.170, RSMo 1986. Original rule filed Feb. 13, 1985, effective May 11, 1985. Rescinded: Filed April 5, 2004.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 10—Missouri State Board of Accountancy Chapter 2—General Rules

PROPOSED AMENDMENT

4 CSR 10-2.200 Use of the Title Certified Public Accountant and Display of [C.P.A. Certificates] CPA Licenses. The board is proposing to amend the rule Title and the original Purpose statement, amend sections (1) and (2) and add new language in section (3).

PURPOSE: This rule is being amended to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

PURPOSE: This rule clarifies when a certified public accountant who received his or her certificate prior to August 28, 2001, is prohibited from using the title certified public accountant and displaying a certified public accountant certificate.

(1) If the holder of a certificate as a certified public accountant *[(C.P.A.)] (CPA)* does not hold a *[live permit] current license* to practice issued under *[section 326.210, RSMo] prior law* and *[s/he] he or she* is engaged either full- or part-time in performing or offering to perform for the public one (1) or more types of services involving the use of accounting, auditing or bookkeeping skills, one (1) or more types of management advisory or consulting services, the preparation of tax returns, the furnishing of advice on tax matters, or any similar occupation, then *[s/he] he or she* shall not use the title certified public accountant or *[C.P.A.] CPA* in any manner except in a resume or qualifications prepared in connection with an application for employment.

(2) If the holder of a certificate as a *[C.P.A.] CPA* does not hold a *[live permit] current license* to practice issued under section *[326.210] 326.286*, RSMo and if *[s/he] he or she* is engaged either full- or part-time in performing or offering to perform for the public one (1) or more types of services involving the use of accounting, auditing or bookkeeping skills, one (1) or more types of management advisory or consulting services, the preparation of tax returns, the furnishing of advice on tax matters, or any similar occupation, then *[s/he] he or she* shall not display *[his/her] his or her* certificate.

(3) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.

AUTHORITY: sections *[326.110, RSMo Supp. 1993 and 326.170, RSMo 1986] 326.262 and 326.292, RSMo Supp. 2003*. Original rule filed Sept. 16, 1985, effective March 24, 1986. Amended: Filed April 5, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 10—Missouri State Board of Accountancy Chapter 2—General Rules

PROPOSED RESCISSION

4 CSR 10-2.210 Peer Reviews. This rule established the standards for conducting a peer review in accordance with section 326.055.2, RSMo.

PURPOSE: This rule is being rescinded to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

AUTHORITY: sections 326.110, RSMo Supp. 1993 and 326.170, RSMo 1986. Original rule filed Dec. 15, 1983, effective April 12, 1984. Rescinded: Filed April 5, 2004.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 10—Missouri State Board of Accountancy Chapter 2—General Rules

PROPOSED RESCISSION

4 CSR 10-2.215 Requirements Necessary to be Accredited to Perform Peer Reviews Under Section 326.055.2, RSMo. This rule set forth the qualifications necessary to be accredited by the board to perform peer reviews as provided for in section 326.055.2, RSMo.

PURPOSE: This rule is being rescinded to implement the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

AUTHORITY: section 326.110, RSMo Supp. 1993. Original rule filed Feb. 5, 1990, effective June 28, 1990. Rescinded: Filed April 5, 2004.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 10—Missouri State Board of Accountancy Chapter 3—Professional Ethics—Rules of Conduct

PROPOSED AMENDMENT

4 CSR 10-3.010 General Purpose of Ethics Rules. The board is proposing to amend the original Purpose statement and sections (1)–(5) and add language in a new section (6).

PURPOSE: This rule is being amended to implement provisions of the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

PURPOSE: This Code of Professional Conduct is promulgated under the authority granted by section [326.170] 326.271, RSMo which delegates to the board the power and duty to prescribe rules of professional conduct for establishing and maintaining high standards of competence and integrity in the profession of public [accountancy] accounting.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) [The Rules of Conduct set forth rest upon the premise that the reliance of the public in general, and of the business community in particular, on sound financial reporting, and on the implication of professional competence which inheres in the authorized use of a legally restricted title relating to the practice of public accountancy, imposes on persons engaged in that practice certain obligations both to their clients and to the public. These obligations, which the Rules of Conduct are intended to enforce where necessary, include the obligation to maintain independence of thought and action, to strive continuously to improve one's professional skills, to observe, where applicable, generally accepted accounting principles and generally accepted auditing standards, to promote sound and informative financial reporting, to hold the affairs of clients in confidence, to uphold the standards of the public accountancy profession and to maintain high standards of personal conduct in all matters affecting one's fitness to practice public accountancy.] A licensee shall comply with the professional standards of the most current American Institute of Certified Public Accountants (AICPA) Code of Professional Conduct, including the most current AICPA Interpretations of the Code of Professional Standards. Said standards are incorporated by reference in this rule. A printed copy or copy on CD-Rom, or other electronic copy of the Code of Professional Conduct may also be obtained from the American Institute of Certified Public Accountants, PO Box 2209, Jersey City, New Jersey 07303-2209 or <http://www.aicpa.org>. The licensee shall also comply with the requirements of any state, territory, federal agency, or country, which may regulate professional responsibilities of accountants. In the event of a conflict between the AICPA Code of Professional Conduct and the Missouri statute or rules, the Missouri statute or rules shall prevail.

(2) [Acceptance of licensure to engage in the practice of public accountancy, or to use titles which imply a particular competence so to engage, involves acceptance by the licensee of those obligations, and accordingly of a duty to abide by the Rules of Conduct.] As the AICPA Code of Professional Conduct is considered to be generally accepted

standards of auditing and accounting, regardless whether a licensee is a member or non-member of the AICPA, the licensee shall comply with its provisions. When these pronouncements are written in terms of "should," a licensee shall follow the pronouncements in every applicable instance as though they were written in mandatory language, except in those cases where a justifiable reason exists for a departure from the pronouncements in the licensee's or licensed entity's report on those financial statements.

(3) *[The Rules of Conduct are intended to have application to all kinds of professional services performed in the practice of public accountancy, including tax and management advisory services, and to apply as well to all licensees, whether or not engaged in the practice of public accountancy, except where the wording of a rule clearly indicates that the applicability is more limited.]* A licensee who performs audits, reviews, compilations, management advisory services, taxes, or other professional services shall comply with standards promulgated by the AICPA or by other governmental entities having similar authority as recognized by the board. Other professional pronouncements that have similar generally recognized authority are considered to be interpretations of generally accepted auditing standards, and departures therefrom must be justified.

(4) A licensee who is engaged in the practice of public *[accountancy]* accounting outside the United States will not be subject to discipline by the board for departing, with respect to foreign practice, from any of the rules, so long as *[his/her]* his or her conduct is in accordance with the standards of professional conduct applicable to the practice of public *[accountancy]* accounting in the country in which *[s/he]* he or she is practicing. However, even in this case, if a licensee's name is associated with financial statements in a manner as to imply that *[s/he]* he or she is acting as a *[n independent]* certified public accountant and under circumstances that would entitle the reader to assume that United States practices are followed, *[s/he]* he or she will be expected to comply with *[4 CSR 10-3.020(1) and (2)]* this rule.

(5) In the interpretation and enforcement of the AICPA Code of Professional Conduct, the board will give consideration, but not necessarily dispositive weight, to relevant interpretations, rulings and opinions issued by the boards of other jurisdictions, and by appropriately authorized committees on ethics of professional organizations.

(6) The provisions of this rule are declared severable. If any provision of this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction to be invalid.

AUTHORITY: section *[326.170, RSMo 1986]* 326.271, RSMo Supp. 2003. Original rule filed July 3, 1975, effective Aug. 25, 1975. Amended: Filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed April 5, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be

received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 3—Professional Ethics—Rules of Conduct**

PROPOSED RESCISSION

4 CSR 10-3.020 Independence, Integrity and Objectivity. This rule set forth the first of four ethical principles a certified public accountant or public accountant or firm, partnership, limited liability company or professional corporation practicing public accounting in this state should maintain his/her or its integrity and objectivity and, when engaged in the practice of public accounting, be independent of those s/he or it serves.

PURPOSE: This rule is being rescinded to implement the provisions of the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

AUTHORITY: section 326.110, RSMo 1994. Original rule filed July 3, 1975, effective Aug. 25, 1975. For intervening history, please consult the Code of State Regulations. Rescinded: Filed April 5, 2004.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 3—Professional Ethics—Rules of Conduct**

PROPOSED RESCISSION

4 CSR 10-3.030 Competence and Technical Standards. This rule set forth the second of four ethical principles and was intended to help insure that a certified public accountant or public accountant or firm, partnership, limited liability company or professional corporation practicing public accounting observed the profession's standards and strived continually to improve his/her or its competence and the quality of his/her or its service.

PURPOSE: This rule is being rescinded to implement the provisions of the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

AUTHORITY: section 326.110, RSMo Supp. 1993. Original rule filed July 3, 1975, effective Aug. 25, 1975. Amended: Filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed June 13, 1984, effective Oct. 11, 1984. Amended: Filed June 2, 1986, effective Oct. 27, 1986. Amended: Filed Feb. 5, 1990, effective June 28, 1990. Amended: Filed Nov. 13, 1992, effective June 7, 1993. Amended:

Filed Oct. 13, 1993, effective May 9, 1994. Rescinded: Filed April 5, 2004.

PUBLIC COST: *This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 10—Missouri State Board of Accountancy Chapter 3—Professional Ethics—Rules of Conduct

PROPOSED RESCISSION

4 CSR 10-3.040 Responsibilities to Clients. This rule presented the third of four ethical principles and was intended to help insure that a certified public accountant or public accountant or firm, partnership, limited liability company or professional corporation practicing public accounting was fair and candid with his/her or its clients and served them to the best of his/her or its ability with professional concern for their best interests consistent with his/her or its responsibilities to the public.

PURPOSE: *This rule is being rescinded to implement the provisions of the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.*

AUTHORITY: *section 326.110, RSMo Supp. 1993. Original rule filed July 3, 1975, effective Aug. 25, 1975. Amended: Filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed Sept. 3, 1986, effective Jan. 30, 1987. Amended: Filed Oct. 22, 1987, effective March 25, 1988. Amended: Filed Nov. 1, 1988, effective Feb. 11, 1989. Amended: Filed Oct. 13, 1993, effective May 9, 1994. Rescinded: Filed April 5, 2004.*

PUBLIC COST: *This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 10—Missouri State Board of Accountancy Chapter 3—Professional Ethics—Rules of Conduct

PROPOSED AMENDMENT

4 CSR 10-3.060 Other Responsibilities and Practices. The board is proposing to amend the original Purpose statement and sections (1)–(4), (6), (9) and (11).

PURPOSE: *This rule is being amended to implement provisions of the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.*

PURPOSE: *This rule sets forth the [fourth of four ethical] professional principles and is intended to help insure that a certified public accountant [or public accountant] or certified public accounting firms, [partnership, limited liability company or professional corporation] practicing public accounting shall conduct him/herself or [itself] the firm in a manner which will enhance the stature of the profession and its ability to serve the public.*

PUBLISHER'S NOTE: *The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.*

(1) A licensee shall not commit any act that reflects adversely on [his/her] **his or her** or [its] **the firm's** fitness to engage in the practice of public [accountancy] **accounting**.

(2) A licensee shall be determined to have committed an act which reflects adversely on [his/her] **his or her** or [its] **the firm's** fitness to engage in the practice of public [accountancy] **accounting** if [s/he] **he or she** or [it] **the firm** fails to comply with a rule adopted by the board for the purpose of implementing the provisions of sections [326.055 and 326.210] **326.280 to 326.289**, RSMo or with any order issued pursuant to either of the previously mentioned sections.

(3) A licensee shall not permit others to carry out on [his/her] **his or her** or [its] **the firm's** behalf, either with or without compensation, acts which, if carried out by the licensee, would place [him/her] **him or her** or [it] **the firm** in violation of the [R]rules of [C]conduct.

(4) A licensee shall not use or participate in the use of any form of public communication having reference to [his/her] **his or her** or [its] **the firm's** professional services which contains a false, fraudulent, misleading, deceptive or unfair statement or claim.

(6) A licensee shall not practice public [accountancy] **accounting** under a firm name which is misleading in any way, as to the legal form of the firm, or as to the persons who are partners, members, managers, officers, directors or shareholders of the firm, partnership, limited liability company or professional corporation, as the case may be or as to any matter with respect to which public communications are restricted by section (4) of this rule. However, names of one (1) or more past partners, members or shareholders may be included in the firm name of a partnership, limited liability company, or professional corporation or its successor, and a partner surviving the death or withdrawal of all other partners may continue to practice under a partnership name for up to two (2) years after becoming a sole practitioner.

(9) When testifying as an expert witness in a judicial proceeding or properly constituted inquiry, a licensee shall be candid even though [his/her] **his or her** testimony may be damaging to another licensee.

(11) [No licensee (person, firm, partnership, limited liability company, professional corporation or other entity) engaged in the practice of public accounting, or offering to engage in the practice of public accounting, in this state shall pay a commission to a third party to obtain a client, nor shall any licensee, directly or indirectly, accept a commission for a referral to a client of products or services of others unless, prior to being engaged by such client, or making the referral for products or services of others, the licensee discloses to the client in writing the fact and the amount of any such commission(s). The term commission shall include, but not be limited to, any fee, profit or other thing of value required or received for the rendering or selling of goods or services and any fee, profit or other thing of value required or received for referring a client to the products or services of others or any fee, profit or other thing of value paid to obtain a client. This rule does not apply to payments made where the payments are part of the employees' compensation or for the purchase of all, or a material part, of an accounting practice, or to retirement payments to persons formerly engaged in the practice of public accountancy.] A licensee shall comply with any accounting record retention requirements in the professional standards of the most current American Institute of Certified Public Accountants (AICPA) Code of Professional Conduct, which is incorporated by reference in this rule, and any other governmental agency, which may regulate client business or use the licensee's report to evaluate the client's compliance with applicable laws and related regulations. However, documentation or working papers required by professional standards for attest services, for present or former clients, shall be maintained in paper or electronic format by a licensee or permit holder for a period of not less than four (4) years from the date of any report issued in connection with the attest service. Failure to maintain such documentation or working papers may be deemed an admission that they do not comply with professional standards.

AUTHORITY: sections [326.110 and 326.170, RSMo 1994] 326.271, 326.280 and 326.289, RSMo Supp. 2003. Original rule filed July 3, 1975, effective Aug. 25, 1975. Amended: Filed Sept. 13, 1978, effective Jan. 13, 1979. Amended: Filed Oct. 16, 1979, effective Feb. 11, 1980. Amended: Filed July 15, 1985, effective Dec. 12, 1985. Amended: Filed April 1, 1986, effective July 11, 1986. Amended: Filed Nov. 1, 1988, effective Feb. 11, 1989. Amended: Filed Oct. 13, 1993, effective May 9, 1994. Amended: Filed Oct. 13, 1995, effective April 30, 1996. Amended: Filed April 5, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 4—Continuing Education Requirements**

PROPOSED RESCISSION

4 CSR 10-4.010 Effective Dates and Basic Requirements. This rule set the date on which continuing education courses were required for renewal of permits to practice and established the basic continuing education requirements.

PURPOSE: This rule is being rescinded and readopted to implement the provisions of the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

AUTHORITY: section 326.110, RSMo Supp. 1996. Original rule filed Nov. 5, 1984, effective Feb. 11, 1985. Amended: Filed Aug. 3, 1988, effective Nov. 24, 1988. Amended: Filed April 18, 1989, effective July 27, 1989. Amended: Filed Feb. 5, 1990, effective June 28, 1990. Amended: Filed Oct. 9, 1996, effective April 30, 1997. Rescinded: Filed April 5, 2004.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 4—Continuing Education Requirements**

PROPOSED RULE

4 CSR 10-4.010 Effective Dates and Basic Requirements

PURPOSE: This rule sets forth the continuing education requirements for renewal of license to practice.

(1) The following requirements of continuing professional education apply to the renewal of licenses pursuant to section 326.286, RSMo:

(A) An applicant seeking renewal of a license shall have completed no less than one hundred twenty (120) hours of continuing professional education, complying with these rules during the three (3)-year period preceding renewal. Commencing on January 1, 2004, a minimum of twenty (20) hours of continuing professional education (CPE) is required in each calendar year. Also commencing on January 1, 2004, a minimum of two (2) hours of the required twenty (20) hours per calendar year of CPE shall be in the area of ethics. An applicant seeking renewal of a license shall demonstrate participation in a program of learning meeting the standards set forth in the Statement on Standards for Continuing Professional Education (CPE) Programs jointly approved by National Association of State Boards of Accountancy (NASBA) and American Institute of Certified Public Accountants (AICPA) as provided in 4 CSR 10-4.020, or such other standards acceptable to the board;

(B) An applicant whose license has lapsed shall have completed no less than one hundred twenty (120) hours of CPE complying with these rules during a three (3)-year period preceding the date of reapplication; or who agrees to obtain the one hundred twenty (120) hours of CPE within one (1) year of applying for reinstatement. The applicant shall provide to the board, upon request, copies of CPE

documentation verifying compliance with this requirement;

(C) A nonresident licensee seeking renewal of a license in this state shall be determined to have met the CPE requirement of this rule by meeting the CPE requirements for renewal of a license in the state in which the licensee's principal office is located;

(D) Nonresident applicants for renewal shall demonstrate compliance with the CPE renewal requirements of the state in which the licensee's principal office is located by attesting on an application provided by the board;

(E) If a nonresident licensee's principal office state has no CPE requirements for renewal of a license, the nonresident licensee must comply with all CPE requirements for renewal of a license in this state.

AUTHORITY: section 326.271, RSMo Supp. 2003. Original rule filed Nov. 5, 1984, effective Feb. 11, 1985. For intervening history, please consult the Code of State Regulations. Rescinded and readopted: Filed April 5, 2004.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions an estimated seven hundred eighteen dollars and two cents (\$718.02) annually for the life of the rule. It is anticipated that the total annual cost will recur for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

PRIVATE COST: This proposed rule will cost private entities an estimated \$1,550,400 annually for the life of the rule. It is anticipated that the total annual cost will recur for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

PUBLIC ENTITY FISCAL NOTE

I. RULE NUMBER

Title 4 -Department of Economic Development

Division 10 - Missouri State Board of Accountancy

Chapter 4 - Continuing Education Requirements

Proposed Rule - 4 CSR 10-4.010 Effective Dates and Basic Requirements

Prepared April 1, 2004 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
Missouri State Board of Accountancy	\$718.02
Total Annual Cost of Compliance for the Life of the Rule	
	\$718.02

III. WORKSHEET

The board will conduct random audits annually of 165 licensees. The Account Clerk II will generate a random listing of licensees to be contacted for the audit, prepare the correspondence and mailing, review documentation for compliance, approve documentation and notify licensee of approval. The board estimates that 15 licensees will require additional communication with the board due to noncompliance. The Senior Auditor will oversee the auditing process, contact licensees for noncompliance and negotiate a plan to bring the licensee into compliance. The figures below represent costs paid by the State Board of Accountancy for implementation of this rule.

Employee's salaries were calculated using the annual salary multiplied by 40.47% for fringe benefits and then divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The figures below represent costs paid by the State Board of Accountancy for implementation of this rule.

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER LICENSEE	TOTAL COST
Account Clerk II	\$21,072.00	\$28,257.55	\$13.59	\$0.23	10 minutes	\$2.26	\$373.60
Senior Auditor	\$44,184.00	\$59,250.74	\$28.49	\$0.47	15 minutes	\$7.12	\$106.82

Total Costs \$480.42

Expense and Equipment Dollars for Initial Applications

Letterhead	\$0.10
Envelope for Mailing	\$0.16
Postage	\$0.32
Printing Permit	\$0.35
Envelope for Mailing Permit	\$0.16
Postage for Mailing Permit	\$0.35
Total Expense and Equipment Cost per Application:	\$1.44

Total Expense and Equipment Costs
(for 165 applications for reinstatement) \$237.60

IV. ASSUMPTION

- The above figures were based on FY03 actuals. The board anticipate the number of firms renewing will remain constant for the life of the rule.
- It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

NOTE: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the board, which includes personal service, expense and equipment and transfers.

PRIVATE ENTITY FISCAL NOTE**I. RULE NUMBER****Title 4 -Department of Economic Development****Division 10 - Missouri State Board of Accountancy****Chapter 4 - Continuing Education Requirements****Proposed Rule - 4 CSR 10-4.010 Effective Dates and Basic Requirements**

Prepared April 1, 2004 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
1938	Continuing Professional Education (40 hours per year @ \$20 per hour)	\$1,550,400.00
	Estimated Annual Cost of Compliance for the Life of the Rule	\$1,550,400.00

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The board anticipates 5,831 (75%) licensees will obtain the required continuing professional education at no direct cost to them through their employer or via the self study programs. The board further estimates that 1,938 (25%) licensees will receive 40 hours of continuing professional education annually for an average cost of \$20.00 per hour for the life of the rule. However, it is not possible to estimate all costs, (i.e., gas, meals, and lodging) that a licensee could incur in obtaining the required continuing education.
2. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of Chapter 326, RSMo. Pursuant to Section 326.319, RSMo, the board shall by rule and regulation set the amount of fees authorized by Chapter 326, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 326, RSMo. This proposed amendment is necessary because the board's projected revenue will not support the expenditures necessary to enforce and administer the provisions of Chapter 326, RSMo, which will result in an endangerment to the health, welfare, and safety of the public.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 4—Continuing Education Requirements**

PROPOSED RESCISSION

4 CSR 10-4.020 Programs Which Qualify. This rule established the criteria to be satisfied in order for a continuing education program to be considered acceptable by the board.

PURPOSE: This rule is being rescinded and readopted to implement the provisions of the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

AUTHORITY: section 326.110, RSMo Supp. 1993. Original rule filed Nov. 5, 1984, effective Feb. 11, 1985. Amended: Filed June 4, 1990, effective Nov. 30, 1990. Rescinded: Filed April 5, 2004.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 4—Continuing Education Requirements**

PROPOSED RULE

4 CSR 10-4.020 Qualifying Programs

PURPOSE: This rule establishes the criteria to be satisfied in order for a continuing education program to be considered acceptable by the board.

(1) Programs Qualifying for Continuing Professional Education Credit.

(A) Standards. Effective January 1, 2003 a program qualifies as acceptable continuing professional education for purposes of section 326.286, RSMo and these rules if it is a program of learning that contributes to the growth in the professional knowledge and professional competence of a licensee. The program must meet the minimum standards of quality of development, presentation, measurement, and reporting of credits set forth in the Statement on Standards for Continuing Professional Education Programs jointly approved by the National Association of State Boards of Accountancy (NASBA) and the American Institute of Certified Public Accountants (AICPA) or such other standards acceptable to the board.

(B) Subject Areas. The board will accept programs meeting the standards set forth in the Statement on Standards for Continuing Professional Education Programs jointly approved by the NASBA and the AICPA or standards deemed by the board to be comparable thereto.

AUTHORITY: section 326.271, RSMo Supp. 2003. Original rule filed Nov. 5, 1984, effective Feb. 11, 1985. Amended: Filed June 4, 1990,

effective Nov. 30, 1990. Rescinded and readopted: Filed April 5, 2004.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 4—Continuing Education Requirements**

PROPOSED RESCISSION

4 CSR 10-4.030 Qualifying Subjects. This rule established general subject matters acceptable as continuing education courses.

PURPOSE: This rule is being rescinded to implement the provisions of the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

AUTHORITY: section 326.110, RSMo Supp. 1993. Original rule filed Nov. 5, 1984, effective Feb. 11, 1985. Rescinded: Filed April 5, 2004.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 10—Missouri State Board of Accountancy
Chapter 4—Continuing Education Requirements**

PROPOSED RULE

4 CSR 10-4.031 Continuing Professional Education (CPE) Documentation

PURPOSE: This rule sets forth the record requirements for documenting the required continuing professional education (CPE).

(1) Continuing Professional Education Records.

(A) Applicants for renewal of a license shall attest on an application provided by the board that they have met the requirements for participation in a program of continuous learning as set forth by the

board or contained in the Statement on Standards for Continuing Professional Education (CPE) Programs jointly approved by the National Association of State Boards of Accountancy (NASBA) and the American Institute of Certified Public Accountants (AICPA). Responsibility for documenting the acceptability of the program and the validity of the credits rests with the applicant who should retain such documentation for a period of five (5) years following completion of each learning activity.

(B) The board may verify information submitted by applicants for licensure. In cases where the board determines that the requirement is not met, the board may grant an additional period of time in which the deficiencies can be cured. Fraudulent reporting of CPE is a basis for disciplinary action.

AUTHORITY: sections 326.271 and 326.310, RSMo Supp. 2003. Original rule filed April 5, 2004.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 10—Missouri State Board of Accountancy Chapter 4—Continuing Education Requirements

PROPOSED RESCISSION

4 CSR 10-4.040 Measurement of Continuing Education Hours. This rule established the method for measuring continuing education credit. It also restricted the number of continuing education hours that could be claimed for self-study programs, writing articles or publications and teaching continuing education courses.

PURPOSE: This rule is being rescinded to implement the provisions of the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

AUTHORITY: section 326.110, RSMo Supp. 1993. Original rule filed Nov. 5, 1984, effective Feb. 11, 1985. Amended: Filed July 11, 1994, effective Jan. 29, 1995. Rescinded: Filed April 5, 2004.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 10—Missouri State Board of Accountancy Chapter 4—Continuing Education Requirements

PROPOSED RULE

4 CSR 10-4.041 Continuing Professional Education (CPE) Exceptions and Waivers

PURPOSE: This rule sets forth the exemptions from continuing professional education (CPE) requirements in certain circumstances.

(1) Exceptions.

(A) A licensee who received a license after August 28, 2001 and who is not practicing public accounting in any setting may be granted an inactive license and be exempted from the continuing professional education (CPE) requirement by the board. The inactive licensee shall place the word “inactive,” “retired,” or “ret.” in association with their certified public accountant title. The inactive licensee may return to active status upon showing evidence that they have completed no less than one hundred twenty (120) hours of CPE during the three (3)-year period preceding the request for reactivation; or agrees in writing to meet the requirement within one (1) year of applying for reactivation.

(B) The board may in particular cases make exceptions to the requirements set out in 4 CSR 10-4.010 for reasons of individual hardship including health, military service, foreign residence, or other good cause.

(C) Applicants requesting a waiver of CPE requirements shall do so in writing and shall provide documentation supporting the request if required by the board.

AUTHORITY: section 326.271, RSMo Supp. 2003. Original rule filed April 5, 2004.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 10—Missouri State Board of Accountancy Chapter 4—Continuing Education Requirements

PROPOSED RESCISSION

4 CSR 10-4.050 Reporting and Supporting Evidence. This rule prescribed the requirement for reporting continuing education courses and the records to be retained by the licensee.

PURPOSE: This rule is being rescinded to implement the provisions of the Missouri Uniform Accountancy Act, which was passed in House Bill 567 of the 91st General Assembly.

AUTHORITY: section 326.110, RSMo Supp. 1996. Original rule filed Nov. 5, 1984, effective Feb. 11, 1985. Amended: Filed April 18, 1989, effective July 27, 1989. Amended: Filed June 15, 1992, effective Feb. 26, 1993. Amended: Filed Oct. 9, 1996, effective April 30, 1997. Rescinded: Filed April 5, 2004.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Accountancy, Ken L. Bishop, Executive Director, PO Box 613, Jefferson City, MO 65102-0613 or at boa@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 15—Acupuncturist Advisory Committee
Chapter 1—General Rules**

PROPOSED AMENDMENT

4 CSR 15-1.030 Fees. The board is proposing to amend section (3).

PURPOSE: The State Board of Chiropractic Examiners upon recommendation by the Acupuncturist Advisory Committee is statutorily obligated to enforce and administer the provisions of sections 324.475–324.499, RSMo. Pursuant to section 324.068, RSMo, the board shall by rule and regulation set the amount of fees necessary to administer the provisions of sections 324.475–324.499, RSMo. Therefore, the board is reducing the fees associated with licensure.

(3) The fees are established as follows:

- | | |
|--|-----------------------------|
| (A) Acupuncturist Application Fee | [\$ 700.00] \$500.00 |
| (B) Acupuncturist Biennial Renewal Fee | [\$ 700.00] \$500.00 |
| (C) Fingerprinting Fee | [\$ 23.00] |

Amount to be determined by the Missouri State Highway Patrol

- | | |
|---|---------------------------|
| (D) Insufficient Funds Check Charge Fee | [\$ 50.00] \$25.00 |
|---|---------------------------|

AUTHORITY: sections 324.481, 324.487, 324.490 and 324.493, RSMo 2000. Original rule filed July 24, 2001, effective Feb. 28, 2002. Amended: Filed March 15, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will save private entities an estimated seven thousand six hundred dollars (\$7,600) biennially and four hundred dollars (\$400) annually for the life of the rule. It is anticipated that the total savings will recur for the life of the rule, may vary with inflation and is expected to decrease at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost savings, has been filed with the secretary of state.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Acupuncturist Advisory Committee, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-0735 or via e-mail at acupunct@mail.state.mo.us. To be considered, comments must be

PRIVATE ENTITY FISCAL NOTE

I. RULE NUMBER

Title 4 -Department of Economic Development

Division: 15 - Missouri Acupuncture Advisory Committee

Chapter 1

Proposed Rule - 4 CSR 15-1.030

Prepared August 13, 2003 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost savings with the rule by affected entities:
38	Acupuncture Biennial Renewal Fee Decrease \$200	\$7,600.00
	Estimated Biennial Cost Savings for the Life of the Rule	\$7,600.00
2	Acupuncture Application Fee Decrease \$200	\$400.00
	Estimated Annual Cost Savings for the Life of the Rule	\$400.00

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The original fiscal notes estimating the costs of original licensure and renewal were filed with the Secretary of States Office on July 24, 2001 with 4 CSR 15-2.010 Application for Licensure and 4 CSR 15-2.020 License Renewal, Restoration and Continuing Education.
2. In fiscal year 2003 the advisory committee renewed 34 licenses for acupuncture. An additional 4 licenses have been issued since the end of the renewal cycle. The advisory committee estimates a total of 38 licensees will be impacted by the renewal fee decrease.
3. The advisory committee estimates it will receive 2 licensure applications per year.

NOTE:

The board is statutorily obligated to enforce and administer the provisions of sections 324.240-324.275, RSMo. Pursuant to Section 324.245, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 324.240-324.275, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 324.240-324.275, RSMo. This proposed amendment is necessary because the board's projected revenue will not support the expenditures necessary to enforce and administer the provisions of sections 324.240-324.275, RSMo, which will result in an endangerment to the health, welfare, and safety of the public.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 15—Acupuncturist Advisory Committee
Chapter 2—Acupuncturist Licensure Requirements**

PROPOSED AMENDMENT

4 CSR 15-2.020 License Renewal, Restoration and Continuing Education. The board is proposing to amend section (3).

PURPOSE: This amendment adds universal precautions/infection control and cardiopulmonary resuscitation (CPR) certification as part of the continuing education requirement.

(3) Prior to the expiration date of the license and as a condition of the license renewal, a licensed acupuncturist shall complete thirty (30) hours of continuing education within the two (2)-year licensure period. Continuing education shall be related to the practice of acupuncture **and include universal precautions/infection control and cardiopulmonary resuscitation (CPR) certification.** For the first year of licensure continuing education hours shall not be required.

AUTHORITY: sections 324.481, 324.490, **324.493** and 324.496, RSMo 2000. Original rule filed July 24, 2001, effective Feb. 28, 2002. Amended: Filed March 15, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Acupuncturist Advisory Committee, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-0735 or via e-mail at acupunct@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 15—Acupuncturist Advisory Committee
Chapter 3—Standards of Practice,
Code of Ethics, Professional Conduct**

PROPOSED AMENDMENT

4 CSR 15-3.010 Standards of Practice. The board is proposing to add a new section (5) and renumber the remaining sections accordingly.

PURPOSE: This rule establishes standards of practice for licensed acupuncturists.

(5) If a licensed acupuncturist discontinues practice in Missouri, the licensee shall notify the patient in writing at least thirty (30) days in advance of discontinuing practice that the patient records shall be made available to either the patient or another licensed acupuncturist of the patient's choosing. The board may waive the thirty (30)-day requirement if the licensee can make a showing of good cause for failing to comply.

[[5]] (6) If services are to be provided by an acupuncturist trainee or detox technician the patient shall be advised in advance.

[[6]] (7) Acupuncturists, auricular detox technicians, and acupuncturist trainees under the supervision of a licensed acupuncturist shall follow the standards for Clean Needle Technique (CNT) as published by the National Acupuncture Foundation in effect at the time the acupuncture service is performed, and shall follow universal precautions.

(A) For the purpose of this rule, "universal precautions" is an approach to infection control as defined by the Center for Disease Control (CDC). According to the concept of universal precautions, all human blood and certain body fluids are treated as if known to be infectious for Human Immunodeficiency Virus (HIV), Hepatitis B Virus (HBV), and other blood borne pathogens.

[[7]] (8) All disposable needles shall be disposed of immediately after use and placed in a biohazard container as required by the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA).

[[8]] (9) When reusable needles are used, a basic, double sterilization procedure protocol shall be utilized. Specific procedures of the protocol are outlined in the *Clean Needle Technique Manual* published by the National Acupuncture Foundation. The procedures include, but are not limited to the following:

(A) Immediately after each use, the reusable needle shall be stored in a container designated for contaminated needles. Initial sterilization may be obtained by using a chemical sterilant;

(B) After the first sterilization, the needle shall be soaked in a chemical disinfectant as defined in section [[10]](11) of this rule; and

(C) Final sterilization procedures shall conform to one of the following:

1. Pressurized steam bath, such as an autoclave, at a required two hundred fifty degrees Fahrenheit (250°F), at fifteen (15) pounds pressure for thirty (30) minutes. The pressure must be released quickly at the end of the sterilization cycle; or

2. Dry heat sterilization at a required three hundred thirty-eight degrees Fahrenheit (338°F) for two (2) hours.

[[9]] (10) Glass bead devices, boiling water, alcohol and pressure cookers shall not be acceptable forms of sterilization.

[[10]] (11) After each patient, a chemical disinfectant shall be used on all equipment that does not penetrate the skin, come into direct contact with needles, or is made of rubber or plastic. Chemical disinfectants include, but are not limited to:

(A) Chlorine-based agents, such as bleach;

(B) Aqueous solution of two percent (2%) glutaraldehyde;

(C) Seventy percent (70%) ethyl or isopropyl alcohol.

AUTHORITY: sections 324.481 and 324.496, RSMo 2000. Original rule filed July 24, 2001, effective Feb. 28, 2002. Amended: Filed March 15, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Acupuncturist Advisory Committee, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 751-0735 or via e-mail at acupunct@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 15—Acupuncturist Advisory Committee
Chapter 4—Supervision of Auricular Detox Technicians
and Acupuncturist Trainees**

PROPOSED AMENDMENT

4 CSR 15-4.020 Supervision of Acupuncturist Trainees. The board is amending section (4).

PURPOSE: This amendment reflects a change to the educational requirements.

(4) Programs that are not certified by ACAOM shall consist of a curriculum that is at least three (3) academic years in length with a minimum of *[ninety-three (93)]* **one hundred five (105)** semester credits or *[one thousand seven hundred and twenty-five (1,725)]* **one thousand nine hundred five (1,905)** hours of study. The curriculum shall be composed of at least:

(B) Twenty-two (22) semester credits (six hundred sixty (660) clock hours) in clinical training; *[and]*

(C) *[Twenty-four (24)]* **Thirty (30)** semester credits *[(three hundred sixty (360) clock hours)]* **(four hundred fifty (450) clock hours)** in biomedical clinical sciences~~/.]; and~~

(D) Six (6) semester credits, (ninety (90) clock hours) in counseling, communication, ethics, and practice management.

AUTHORITY: sections 324.481 and 324.487, RSMo 2000. Original rule filed July 24, 2001, effective Feb. 28, 2002. Amended: Filed March 15, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will cost private entities an estimated one hundred fifty dollars (\$150) annually for the life of the rule. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Acupuncturist Advisory Committee, Loree Kessler, Executive Director, PO Box 1335, Jefferson City, MO 65102 or via e-mail at acupunct@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

PRIVATE ENTITY FISCAL NOTE

I. RULE NUMBER

Title 4 -Department of Economic Development

Division: 15 - Missouri Acupuncture Advisory Committee

Chapter 4 - Supervision of Auricular Detox Technicians and Acupuncturist Trainees

Proposed Rule - 4 CSR 15-4.020

Prepared December 29, 2003 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
1	Additional Educational Requirements	\$150.00
	Estimated Annual Cost of Compliance for the Life of the Rule	\$150.00

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The advisory committee estimates it will receive one licensure application per year that will be required to meet the educational requirements.
2. Because Missouri does not have an accredited acupuncture program and in order to provide an estimated cost, several accredited acupuncture programs in the United States were reviewed. The total cost is determined by multiplying the increase in the number of semester hours (12) by \$12.50 per semester hour.
3. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase annually at the rate projected by the Legislative Oversight Committee.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 30—Missouri Board for Architects, Professional
Engineers, Professional Land Surveyors, and Landscape
Architects**

Chapter 2—Code of Professional Conduct

PROPOSED RULE

4 CSR 30-2.040 Standards of Care

PURPOSE: This rule provides the recipient of professional architectural and engineering services assurances that all buildings are designed in accordance with the most recent applicable codes.

(1) In the absence of any local building code, all buildings shall be designed in accordance with the most recent applicable codes as published by the International Code Conference. Violation of the applicable codes shall constitute incompetency in the performance of functions or duties of any profession licensed or regulated by Chapter 327, RSMo pursuant to section 327.441.2(5), RSMo.

AUTHORITY: sections 327.041, RSMo Supp. 2003 and 327.441, RSMo 2000. Original rule filed March 15, 2004.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102 or via e-mail at moapels@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

**Division 30—Missouri Board for Architects, Professional
Engineers, Professional Land Surveyors, and Landscape
Architects**

Chapter 11—Renewals

PROPOSED RULE

4 CSR 30-11.025 Continuing Education for Architects

PURPOSE: The continuing education requirement is to demonstrate a continuing level of competency for architects.

(1) Purpose.

(A) Effective December 31, 2006, as a condition for renewal of an architectural license issued pursuant to section 327.171, RSMo a licensee shall have successfully completed twenty-four (24) continuing education units (CEUs), as defined by this regulation and the American Institute of Architects (AIA), within the two (2) years immediately preceding the renewal date or be exempt from these continuing education requirements as provided in this rule. At least sixteen (16) CEUs shall be related to health, safety, and welfare (HSW) acquired in structured educational activities. All twenty-four (24) hours may be acquired in such HSW subjects and activities. Failure to comply with these requirements will result in nonrenewal of the architect's license or other disciplinary action or both unless noted

below. Any licensee who completes more than twenty-four (24) CEUs within the preceding two (2) calendar years may apply the excess, not to exceed twelve (12) units, to the requirement for the next two (2)-year period.

(B) Continuing education is a requirement for every architect who is actively licensed by the board, regardless of age, area of practice, or whether the licensee lives in-state or out-of-state pursuant to section 327.171, RSMo.

(C) Continuing education obtained by a licensee should maintain, improve or expand skills and knowledge obtained for initial licensure, or to develop skills and knowledge relevant to the practice of architecture and necessary to safeguard life, health, property and promote the public welfare.

(2) Definitions.

(A) Architectural Division. The three (3)-member division of the board that concerns itself with the profession of architecture.

(B) Board. The Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects.

(C) Contact hour. One (1) nominal contact hour of acceptable continuing education is equivalent to one (1) CEU.

(D) Continuing education unit (CEU). One (1) nominal contact hour of instruction or presentation. One (1) CEU shall represent a minimum of fifty (50) minutes of actual course time. No credit will be allowed for introductory remarks, meals, breaks or administrative matters related to courses of study.

(E) Sponsor. An individual, organization, association, institution or other entity that provides an educational activity for the purpose of fulfilling the continuing education requirements of the board. The sponsor is responsible for providing the attendees with verification records such as certificates of attendance, signed attendance receipts, paid receipts, a copy of a listing of all attendees signed by a person in responsible charge of the activity, or other documentation verifying attendance.

(3) Initial Registration.

(A) An architect who holds licensure in Missouri for less than twelve (12) months from the date of his/her initial licensure, shall not be required to report continuing education hours at the first license renewal. An architect who holds licensure in Missouri for more than twelve (12) months, but less than twenty-four (24) months from the date of initial licensure, shall be required to report twelve (12) CEUs, which includes eight (8) CEUs in HSW earned in the preceding twelve (12) months at the first license renewal.

(4) Activities.

(A) The following suggested list may be used by all licensed architects in determining the types of activities that may fulfill continuing education requirements:

1. Contact hours in attendance at short courses or seminars, dealing with architectural or engineering subjects, as appropriate, to each discipline and sponsored by colleges or universities;

2. Contact hours in attendance at technical presentations on subjects which are held in conjunction with conventions or at seminars related to materials use and function. Such presentations as those sponsored by the National Council of Architectural Registration Boards, American Institute of Architects (AIA), Construction Specifications Institute, Construction Products Manufacturers Council or similar organizations devoted to architectural or engineering education may qualify;

3. Contact hours in attendance at short courses or seminars, relating to business practice or new technology and offered by colleges, universities, professional organizations or system suppliers;

4. Contact hours spent in self-study courses sponsored by the National Council of Architectural Registration Boards, AIA or similar organizations;

5. Three (3) units preparing for each class hour spent teaching architectural courses or seminars. College or university faculty may not claim credit for teaching regular curriculum courses;

6. Contact hours spent in architectural research, which is published or formally presented to the profession or public;

7. College or university credit courses dealing with architectural subjects or business practice. Each semester hour shall equal fifteen (15) CEUs;

8. Contact hours spent in professional service to the public that draws upon the licensee's professional expertise on boards or commissions, such as: serving on planning commissions, building code advisory boards, urban renewal boards or code study committees;

9. Contact hours spent in education tours of architecturally significant buildings, where the tour is sponsored by a college, university or professional organization; or

10. A maximum of two (2) CEUs annually may be used for serving as a mentor or sponsor for the Intern Development Program (IDP).

(5) Exemptions.

(A) A licensed architect shall be deemed to have complied with the foregoing continuing education requirements if the architect attests in the required renewal that for not less than twenty-one (21) months of the preceding two (2)-year period of licensure, the architect (one of the following):

1. Is a resident of another state or district having continuing education requirements for licensure as an architect and has complied with all requirements of that state or district for practice therein; or

2. Is a government employee working as an architect and assigned to duty outside the United States.

(B) If the licensee served on full-time active duty in the military the licensee may renew his/her license without completing the CEU requirement for the renewal period during which the licensee served.

(6) Reactivation—Retired or Inactive.

(A) Architects, who so attest on their renewal that they are retired from active practice or are not engaged in the active practice of architecture, may place their license in an inactive status. Those doing so cannot practice but can still retain the title of architect. Such architect may, however, reenter practice only after paying the required fee and satisfying the board of their proficiency. Proficiency may be established by any one (1) of the following:

1. Submitting verifiable evidence of compliance with the aggregate continuing education requirements for the reporting periods attested as retired from active practice or not engaged in active practice; or

2. Retake the architectural examination; or

3. Fulfill alternative reentry requirements determined by the board, which serve to assure the board of the current competency of the architect to engage in the practice of architecture.

(7) Reciprocity.

(A) CEUs may be acquired at locations other than Missouri, so long as the content meets the requirements of this regulation.

(8) Forms.

(A) All renewal applications will require the submission of either a continuing education form specified and supplied by the board or the AIA/CES reporting form prescribed by the AIA. The licensee must certify and complete the attestation on the form, before submitting it with the renewal application and fee. Failure to fulfill the continuing education requirements, or file the required reporting form, properly and completely signed, shall result in nonrenewal of a licensee's license.

(9) Records.

(A) The responsibility of maintaining records, which can be used to support credits claimed, is the responsibility of the licensee. Each architect shall complete and submit the required reporting form certifying that he/she has acquired the required continuing education hours. These records must be maintained for a period of four (4) years and copies must be furnished to the board for audit verification purposes, if requested. At its discretion, the board may randomly audit a portion of licensees each renewal period or a specific licensee if a complaint has been filed against the licensee. Any untrue or false statements or the use thereof with respect to course attendance or any other aspect of continuing education activity is fraud or misrepresentation and will subject the architect to license revocation or other disciplinary action. If in the review, the board finds that the CEU is not acceptable, the board shall inform the licensee of the criteria that has not been adhered to. The licensee shall have one hundred eighty (180) days after notification to substantiate the original claim or to earn other credits to meet the minimum requirements.

AUTHORITY: sections 327.041, RSMo Supp. 2003 and 41.946 and 327.171, RSMo 2000. Original rule filed March 15, 2004.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions an estimated six thousand three hundred thirty dollars and twenty-six cents (\$6,330.26) annually for the life of the rule. It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

PRIVATE COST: This proposed rule will cost private entities an estimated one hundred forty-one thousand one hundred twenty dollars (\$141,120) biennially for the life of the rule. It is anticipated that the total costs will recur biennially for the life of the rule, may vary with inflation and is expected to increase biennially at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects, PO Box 184, Jefferson City, MO 65102 or via e-mail at moapels@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

PUBLIC ENTITY FISCAL NOTE

I. RULE NUMBER

Title 4 -Department of Economic Development

Division 30 - Board of Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects

Chapter 11 - Renewals

Proposed Rule - 4 CSR 30-11.025 Continuing Education for Architects

Prepared November 21, 2003 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Biennial Cost of Compliance
Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects	\$6,330.26
Total Annual Cost of Compliance for the Life of the Rule	
	\$6,330.26

III. WORKSHEET

The board may conduct an audit of licensees to verify compliance with the continuing education requirements. Licensees shall assist the board with its audits by providing timely and complete responses to the board's inquiries. Based on the current number of licensed architects, it is estimated that the board will audit approximately 3% of current licensees annually and request verification of their completion of the continuing education hours.

The Executive I will prepare the reporting forms to be mailed with the renewal notice and sent to the state's copying center for reproduction. Because the reporting forms will be included in the mailing of renewal notices, no additional postage will be needed. The division's central processing unit will process the renewal form and continuing education reporting form. The board will then audit 3% of the current licensee population to verify compliance with the rule's requirements. The Executive Director will request and monitor receipt of the continuing education. The Executive I will prepare letters requesting licensees to submit information, assist with monitoring their receipt, update the computer licensing system and mail the information to members of the board.

STAFF	ANNUAL SALARY	SALARY TO INCLUDE FRINGE BENEFIT	HOURLY SALARY	COST PER MINUTE	TIME PER APPLICATION	COST PER APPLICATION	TOTAL COST EACH BIENNIAL RENEWAL PERIOD
Executive Director	\$52,200.00	\$70,000.20	\$33.65	\$0.56	60 minutes	\$33.65	\$4,745.21
Executive I	\$27,540.00	\$36,931.14	\$17.76	\$0.30	30 minutes	\$8.88	\$1,251.75

Three members of the Architects Division of the board will review for approval all continuing education received. The board estimates each member of the Architects Division will receive \$50 per day for this review. It is estimated that board members will spend a total of 1 day reviewing the licensee's continuing education. Based on these assumptions, it is estimated the board will pay \$150 annually for this review. Because other board correspondence may be mailed to the members of the board with continuing education audits, the cost for this mailing was calculated into the fiscal note.	\$150.00
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Total Personal Service Costs **\$6,146.96**

Expenditure of Money

CLASSIFICATION	Fee Amount	Number in Class	AGGREGATE COST
Letterhead Printing Cost	\$0.15	282	\$42.30
Envelope for Mailing Letter Requesting Verification of Continuing Education Hours	\$0.16	282	\$45.12
Postage for Mailing Application	\$0.34	282	\$95.88

Total Expense and Equipment Costs
\$183.30

IV. ASSUMPTION

- In order to even out the board's cash flow, the board implemented a biennial split renewal for the FY04 renewal period. Licenses are generally renewed for a 2 year period depending on the year of issuance (even or odd). However, the board will be conducting audits annually based on the split biennial renewal cycles. The above figures are based on FY03 actuals.
- Employees salaries were calculated using their annual salary multiplied by 40.47% for fringe benefits and then were divided by 2080 hours per year to determine the hourly salary. The hourly salary was then divided by 60 minutes to determine the cost per minute. The cost per minute was then multiplied by the amount of time individual staff spent on the processing of applications/renewals. The total cost was based on the cost per application/renewal multiplied by the estimated number applications or renewals.
- It is anticipated that the total cost will recur annually for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE ENTITY FISCAL NOTE

I. RULE NUMBER

Title 4 -Department of Economic Development

Division 30 - Missouri Board of Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects

Chapter 11 - Renewals

Proposed Rule 4 CSR 30-11.025 Continuing Education for Architects

Prepared November 21, 2003 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
2,352	Licenseses (\$30 per hour x 2 hours)	\$141,120.00
	Estimated Biennial Cost of Compliance for the Life of the Rule Beginning in 2005	\$141,120.00 with a continues biennial growth rate of \$70,560

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The board estimates of the 4,704 currently licensed architects approximately 2,352 (or 50%) of these licenseses are members of AIA and are already earning 24 hours of continuing education every two years, therefore, these licenseses will not procure any additional expenses. The other 2,352 (or remaining 50%) may experience a potential cost in order to gain their continuing education hours. Approximately 60% of continuing education hours are offered at no charge and the remaining 40% offered average anywhere from \$10-\$50 per hour. With so many hours offered at no charge, it is possible for our licenseses to acquired the hours needed at no added expense. However, for the purpose of this fiscal note, the board estimates that a licensee would pay for 10% of the required 24 hours of continuing education.
2. The board estimates that in 2005 licenseses will begin obtaining continuing education hours for the 2006 renewal period. The board estimates an biennial growth rate of .5% in the number of licenseses.
3. It is not possible to estimate all costs (i.e., mileage, meals, and lodging) that a licensee could incur in obtaining the required continuing education.
4. It is anticipated that the total cost will recur biennially for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 110—Missouri Dental Board
Chapter 3—Well-Being Rules**

PROPOSED RULE

4 CSR 110-3.010 Definitions

PURPOSE: This rule provides definitions for specific terms used throughout the rules.

- (1) Board—Missouri Dental Board.
- (2) Committee board of directors—Composed of one (1) member designated by the Missouri Dental Association, one (1) member designated by the Missouri Dental Hygienists' Association, one (1) member designated by the Missouri Dental Board, and the committee administrator to promote the early identification, intervention, treatment and rehabilitation of dentists or dental hygienists who may be impaired by reasons of illness, substance abuse, or as a result of any physical or mental condition.
- (3) Committee administrator—The person(s) who is hired, appointed or contracted with by the committee with the approval of the board to coordinate the activities of the committee.
- (4) Contractor—A nonprofit corporation or dental association with whom the board contracts for the purpose of creating, supporting and maintaining the committee.
- (5) Dental professional—Dentist or dental hygienist licensed in the state of Missouri and a dentist or dental hygienist who has applied for licensure in the state of Missouri.
- (6) Impairment—an illness, substance abuse or physical or mental condition suffered by a dentist or dental hygienist that is reasonably related to the practice of dentistry or dental hygiene.

AUTHORITY: sections 332.031.3, RSMo 2000 and 332.327, RSMo Supp. 2003. Original rule filed March 15, 2004.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Dental Board, Sharlene Rimiller, Executive Director, PO Box 1367, Jefferson City, MO 65102, by facsimile at (573) 751-8216 or by e-mailing dental@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 110—Missouri Dental Board
Chapter 3—Well-Being Rules**

PROPOSED RULE

4 CSR 110-3.020 Membership and Organization

PURPOSE: This rule establishes the membership and organization of the Well-Being Committee.

(1) The Well-Being Committee (hereinafter committee) shall be composed of:

- (A) One (1) member designated by the Missouri Dental Association;
- (B) One (1) member designated by the Missouri Dental Hygienists' Association;
- (C) One (1) member designated by the Missouri Dental Board; and
- (D) The committee administrator.

(2) The committee shall serve staggered three (3)-year terms and shall serve as many terms as their respective organizations deem appropriate. The entity designating a member to the committee shall designate a person to finish the three (3)-year term of any member of the committee who becomes unable to serve. The committee shall annually elect a chairperson.

(3) The committee shall meet at least two (2) times annually.

(4) The committee shall serve without compensation other than that allowed by law for service as a board member. Each member of the committee shall be entitled to reimbursement for travel expenses as deemed appropriate by the board.

(5) The committee shall oversee all aspects of the general operation of the contractor including, but not limited to, oversight of the administration, staffing, financial operations and case management as it pertains to the Well-Being Program.

(6) The committee, with the approval of the board, shall appoint, hire or contract with a committee administrator to oversee and manage the day-to-day operations of the committee.

(7) The committee administrator shall be a nonvoting member of the committee.

AUTHORITY: sections 332.031.3, RSMo 2000 and 332.327, RSMo Supp. 2003. Original rule filed March 15, 2004.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Dental Board, Sharlene Rimiller, Executive Director, PO Box 1367, Jefferson City, MO 65102, by facsimile at (573) 751-8216 or by e-mailing dental@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 110—Missouri Dental Board
Chapter 3—Well-Being Rules**

PROPOSED RULE

4 CSR 110-3.030 Well-Being Committee/Contractor Duties

PURPOSE: This rule establishes the duties of the Well-Being Committee and contractor.

(1) The committee/contractor shall provide a written and oral report to the Missouri Dental Board at each quarterly board meeting or

upon request of the board. The report shall outline the status of each impaired dental professional referred to the committee by the board in such detail as requested by the board. The identity of the dental professionals who voluntarily submit to the committee/contractor shall remain anonymous for purposes of these reports.

(2) The committee/contractor shall provide written and oral reports to the Missouri Dental Board, including quarterly income and expense reports. These reports must be itemized and account for all income from any and every source and each expense to any and every vendor that relates to the Well-Being Program in any way.

(3) The committee/contractor shall enter into written contracts with each impaired dental professional. The contract between the committee/contractor and the dental professional shall include, but not be limited to the following:

(A) Each contract shall be a minimum of five (5) years in duration;

(B) Each impaired dental professional will abstain from the possession or consumption of controlled substances except as prescribed by a treating physician;

(C) Each impaired dental professional shall abstain from the possession or consumption of alcohol or illegal drugs;

(D) Each impaired dental professional shall submit to random drug testing unless otherwise specified by the board;

(E) Each impaired dental professional shall report all relapses to the committee;

(F) Upon request of the committee, each impaired dental professional shall report to the committee;

(G) Each impaired dental professional shall attend support meetings as requested by the committee or treatment providers;

(H) Each impaired dental professional referred to the Well-Being Program by the board shall authorize the committee to release any and all information regarding the impaired dental professional to the board;

(I) Each impaired dental professional voluntarily enrolled in the Well-Being Program shall authorize the committee to release any and all information regarding the impaired dental professional to the board upon a violation of Chapter 332, RSMo or the rules promulgated pursuant thereto or the contract with the committee;

(J) Each impaired dental professional shall be financially responsible for all drug screens and any other professional or administrative service rendered on behalf of the impaired dentist or dental hygienist; and

(K) The following paragraph shall be contained in each written agreement:

1. In consideration of my being allowed to participate in the Well-Being Program I expressly release the contractor, the committee, and the Missouri Dental Board and all of their employees, board members, agents and independent contractors from any and all claims, whether now existing or hereafter arising, related to or arising from my participation in the Well-Being Program or any services provided to me thereunder, including but not limited to claims that I might hereafter assert that the contractor, the committee, or Missouri Dental Board, any of the agents or independent contractors, board members or employees were negligent or that any of said persons or entities committed any acts of omission or commission that I claim are or were negligent or that I claim were acts of professional malpractice, it being the intent hereof that I will be forever barred from asserting any such claims hereafter. In the event I hereafter assert any such claim, I agree that such assertion will disqualify me from further participation in the Well-Being Program and that the committee will be absolutely entitled to discharge me from said program.

(4) The committee/contractor shall provide services when appropriate to impaired dental professionals which include, but are not limited to, the following:

(A) Monitoring compliance of the contract between the committee and the impaired dental professional;

(B) Executing drug screens;

(C) Assisting the impaired dentist or dental hygienist in obtaining evaluation and treatment;

(D) Requiring evaluators to provide written reports which address whether a member of the Well-Being Program suffers from an impairment, identifies the impairment, provides recommendations for treatment of the impairment and whether the member's practice of dentistry or dental hygiene should be restricted due to the impairment; and

(E) The committee shall require the costs of drug screens and professional and administrative services to be paid by the impaired dentist or dental hygienist.

(5) The committee/contractor shall report, in writing, to the Missouri Dental Board all violations of board disciplinary orders or the Dental Practice Act which occur after the date of the disciplinary order or the date of the dental professional entering the Well-Being Program, whichever occurs first. All violations shall be reported promptly but no later than ten (10) days after obtaining knowledge of the violation.

(6) The committee/contractor shall assist the board in carrying out the terms of any disciplinary order pertaining to an impaired dental professional.

(7) The committee/contractor shall obtain a written release from all dental professionals referred to the Well-Being Program by the board. The release shall authorize the committee/contractor to release all information and documents pertaining to the dental professional to the board and committee and to communicate all information regarding the impaired dental professional to the board and committee.

(8) The committee/contractor shall provide the Missouri Dental Board access to all information and documents pertaining to impaired dental professionals referred to the Well-Being Program by the board.

(9) The contractor shall require the committee administrator to supply information and documentation with regard to the identification, intervention, treatment and rehabilitation of all dental professionals who participate or are assisted by the Well-Being Program to the committee as directed by the committee.

(10) The contractor shall require the committee administrator to supply all reports provided the Missouri Dental Board to the committee. The contractor shall provide all reports, including reports on dental professionals who participate in or are assisted by the Well-Being Program, and fiscal reports to the committee as directed by the committee. The information and documentation as described herein shall only be released to the board pursuant to Chapter 332, RSMo and the rules promulgated thereto.

(11) The contractor shall require the committee administrator to provide the committee with all information on dental professionals participating in or assisted by the contractor as directed by the committee.

(12) The committee/contractor shall prepare and implement an action plan and budget as directed by and approved by the board. The committee/contractor shall report on progress with regard to preparing and implementing the action plan and budget as directed by the board and committee.

(13) The committee/contractor shall require the committee administrator to submit progress reports to the committee and the Missouri Dental Board with regard to each dental professional participating in

the Well-Being Program upon the dental professional's completion of the program, prior to June 30 of each year, quarterly prior to each meeting of the board and as otherwise requested by the committee or board. Reports of those voluntarily participating in the program shall be for statistical purposes only.

(14) The contractor shall coordinate activities of the committee, oversee and manage the daily operations of the committee and assist with the administrative duties of the committee.

AUTHORITY: sections 332.031.3, RSMo 2000 and 332.327, RSMo Supp. 2003. Original rule filed March 15, 2004.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions an estimated fifty-four thousand dollars (\$54,000) annually for the lifetime of the rule. It is anticipated that the total cost will recur for the life of the rule. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Dental Board, Sharlene Rimiller, Executive Director, PO Box 1367, Jefferson City, MO 65102, by facsimile at (573) 751-8216 or by e-mailing dental@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

PUBLIC ENTITY FISCAL NOTE

I. RULE NUMBER

Title 4 -Department of Economic Development

Division 110 - Missouri Dental Board

Chapter 3 - Well Being Rules

Proposed Rule - 4 CSR 110-3.030 Well Being Committee/Contractor Duties

Chapter 3 - Well Being Rules

Prepared January 16, 2004 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Cost of Compliance
Missouri Dental Board	\$54,000.00
Total Annual Cost of Compliance for the Life of the Rule	
	\$54,000.00

III. WORKSHEET

IV. ASSUMPTION

1. Pursuant to Section 332.327 the Board may enter into a contractual agreement with a nonprofit corporation or a dental association for the purpose of creating, supporting and maintaining a committee to be designated as the well-being committee. The Board has entered into a contractual agreement with the Missouri Dental Association for this purpose in the amount of \$54,000.00. These funds are in a special appropriation for the Well Being Program.
2. It is anticipated that the total cost will recur annually for the life of the rule.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 110—Missouri Dental Board
Chapter 3—Well-Being Rules**

PROPOSED RULE

4 CSR 110-3.040 Confidentiality

PURPOSE: This rule establishes the guidelines regarding the confidentiality of the records and information of the impaired professional.

(1) The committee shall provide the board access to all information pertaining to each impaired dental professional referred to the committee by the Missouri Dental Board.

(2) The committee shall obtain a written release from each impaired dental professional in the Well-Being Program authorizing the release of all information and documents pertaining to the impaired dental professional to the Missouri Dental Board authorizing the committee to communicate all information pertaining to the impaired dental professional to the Missouri Dental Board. The information and documentation as described herein shall only be released to the board pursuant to Chapter 332, RSMo and the rules promulgated thereto.

(3) The board and committee may exchange privileged and confidential information, interviews, reports, statements, memoranda and other documents including information on investigations, findings, conclusions, interventions, treatment, rehabilitation and other proceedings of the board and committee and other information closed to the public to promote the identification, interventions, treatment, rehabilitation and discipline (accountability) of dentists or dental hygienists who may be impaired.

(4) All privileged and confidential information and other information not considered to be public records or information pursuant to Chapter 610, RSMo shall remain privileged and confidential and closed to the public after such information is exchanged.

AUTHORITY: sections 332.031.3, RSMo 2000 and 332.327, RSMo Supp. 2003. Original rule filed March 15, 2004.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Dental Board, Sharlene Rimiller, Executive Director, PO Box 1367, Jefferson City, MO 65102, by facsimile at (573) 751-8216 or by e-mailing dental@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 110—Missouri Dental Board
Chapter 3—Well-Being Rules**

PROPOSED RULE

4 CSR 110-3.050 Committee Administrator

PURPOSE: This rule establishes the qualifications and duties of the

committee administrator.

(1) The committee administrator shall possess a combination of education and experience in the area of addiction counseling and be licensed in Missouri as a psychologist, professional counselor or clinical social worker.

(2) The committee administrator shall be familiar with dental professionals suffering from well-being issues which include, but shall not be limited to, the following:

- (A) Dependency;
- (B) Alcohol addiction;
- (C) Drug addiction;
- (D) Other addictive diseases (gambling, sexual, spending, eating disorders);
- (E) Physical issues; and
- (F) Mental health issues.

(3) The duties of the committee administrator shall include, but not be limited to, the following:

- (A) Organizing and carrying out interventions;
- (B) Referring dental professionals for appropriate treatment;
- (C) Monitoring treatment progress including random drug screens;
- (D) Assisting dental professionals to reenter practice from treatment;
- (E) Assisting with aftercare issues, such as practice restructuring; and
- (F) Any and all reporting of these areas to appropriate agencies.

(4) The committee administrator shall provide the following as directed by the committee:

- (A) Program development;
- (B) Outreach education;
- (C) Intervention;
- (D) Assessment;
- (E) Referrals to treatment programs;
- (F) Case management;
- (G) Monitoring;
- (H) Aftercare contracts;
- (I) Coordinate peer assistance meetings; and
- (J) Other necessary services as determined by the committee.

(5) The committee administrator shall supply information and documentation with regard to the identification, intervention, treatment and rehabilitation of all dental professionals who participate or are assisted by the Well-Being Program to the committee as directed by the committee.

(6) The committee administrator shall supply all reports provided the Missouri Dental Board to the committee. The contractor shall provide all reports, including reports on dental professionals who participate in or are assisted by the Well-Being Program, and fiscal reports to the committee as directed by the committee.

(7) The committee administrator shall provide the committee with all information on dental professionals participating in or assisted by the contractor as directed by the committee.

(8) The committee administrator shall submit progress reports to the committee and the Missouri Dental Board with regard to each dental professional participating in the Well-Being Program upon the dental professional's completion of the program, prior to June 30 of each year, quarterly prior to each meeting of the board and as otherwise requested by the committee or board. Reports of those voluntarily participating in the program shall be for statistical purposes only.

AUTHORITY: sections 332.031.3, RSMo 2000 and 332.327, RSMo

Supp. 2003. Original rule filed March 15, 2004.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Dental Board, Sharlene Rimiller, Executive Director, PO Box 1367, Jefferson City, MO 65102, by facsimile at (573) 751-8216 or by e-mailing dental@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 165—Board of Examiners for Hearing
Instrument Specialists
Chapter 2—Licensure Requirements**

PROPOSED AMENDMENT

4 CSR 165-2.010 Hearing Instrument Specialist in Training (Temporary Permits). The board is proposing to add a new section (10).

PURPOSE: This amendment exempts students attending an accredited hearing sciences program and participating in a practicum from obtaining a temporary permit.

(10) A temporary permit is not required for students attending a hearing sciences program at an accredited college or university that are participating in a practicum to complete that program. The student must be under the direct supervision of a registered supervisor. Direct supervision shall mean the licensed hearing instrument specialist is on the premises where the patient is being treated and is quickly and easily available and the patient has been examined by a licensed hearing instrument specialist at such times as acceptable hearing instrument specialist practice requires. Such students shall not identify themselves as a “hearing instrument specialist,” “hearing instrument specialist in training” or a “temporary permit holder.”

AUTHORITY: sections 346.070, 346.075, 346.080 and 346.115.1(7), RSMo 2000. Emergency rule filed March 18, 1996, effective March 28, 1996, expired Sept. 23, 1996. Emergency rule filed Oct. 28, 1996, effective Nov. 7, 1996, expired May 5, 1997. Original rule filed Oct. 16, 1996, effective May 30, 1997. Amended: Filed June 22, 1999, effective Dec. 30, 1999. Amended: Filed April 1, 2003, effective Sept. 30, 2003. Amended: Filed March 15, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Examiners for Hearing Instrument Specialists, Attention: Executive Director, PO Box 1335, Jefferson City, MO 65102 or at behis@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 200—State Board of Nursing
Chapter 4—General Rules**

PROPOSED AMENDMENT

4 CSR 200-4.020 Requirements for Licensure. The board is proposing to amend subsection (1)(B) and paragraphs (8)(A)3. and 4.

PURPOSE: This amendment changes the name of the Army Practical Nursing Program and eliminates the requirement for foreign applicants to obtain a completed certification of licensure form from a foreign country.

(1) Examination.

(B) The registered professional nurse (RN) candidate shall have successfully completed the basic prescribed curriculum and received a degree or diploma from a school with an accredited professional nursing program. The practical nurse candidate shall have successfully completed a basic prescribed curriculum in an accredited school of practical nursing and have earned a practical nursing degree, diploma or certificate or completed a comparable period of training as determined by the board. A comparable period of training as determined by the board shall mean graduation from an accredited professional nursing program with validation by examination of a personal and vocational concepts course by an accredited practical nursing program or graduation from the *[peacetime Army Clinical Specialist Course: MOS; 91C20(6-69)] Army Practical Nurse Program*.

(8) Intercountry Licensure by Examination in Missouri—RN and LPN.

(A) Application Procedure.

1. A professional/practical nurse licensed outside of the United States or Canada shall be entitled to apply to take the examination for licensure if, in the opinion of the Missouri State Board of Nursing, current requirements for licensure in Missouri are met.

2. An applicant must request, in writing, an Application for Professional/Practical Nurse Licensure by Examination. The request shall include the applicant's full name, current mailing address and country of original licensure. The application shall be properly executed by the applicant in black ink and shall be included in the documents submitted to the Missouri State Board of Nursing for evaluation with the required credentials. All original documents shall be returned to the applicant. Credentials in a foreign language shall be translated into English, the translation shall be signed by the translator and the signature shall be notarized by a notary public. The translation shall be attached to the credentials in a foreign language when submitted to the Missouri State Board of Nursing.

3. The required credentials for practical nurse applicants are—

A. A course-by-course evaluation report received directly from a foreign credentials evaluation service approved by the board;

B. A photostatic copy of birth certificate (if a copy of birth certificate is not available, copy of baptismal certificate, passport or notarized statement from an authorized agency will be accepted as verification of name, date of birth and place of birth);

C. Photostatic copy of marriage license/certificate (if applicable);

D. TOEFL certificate indicating successful completion of examination. Foreign practical nurse applicants from non-English speaking countries or from English speaking countries with different native language shall be required to take the TOEFL and attain a minimum score of fifty (50) in each section of the paper-based examination OR a minimum score of sixteen (16) in the Computer-Based Listening, eighteen (18) in the Computer-Based Structure/Writing, and fifteen (15) in the Computer-Based Reading section of the

Computer-Based Test of English as a Foreign Language (TOEFL) Examination. When the applicant achieves a passing score (as defined above) in each section of the test, the board of nursing will not address itself to that section should there be a required repeat of the examination for other sections;

E. Test of Spoken English (TSE®) Certificate indicating that the applicant has obtained a minimum overall score of forty-five (45);

[F. The certification of licensure form from the licensing agency where the original registration by examination was secured;]

[G.] F. Photostatic copy of original license issued by the licensing agency where original licensure/registration was secured by examination; and

[H.] G. The completed application must be accompanied by one (1) two-inch by two-inch (2" × 2") portrait/photograph of the applicant, two (2) sets of his/her fingerprints, the fingerprinting fee as charged by the Missouri State Highway Patrol and Federal Bureau of Investigation and the required application fee. All fees are non-refundable.

4. The required credentials for professional nurse applicants are—

A. Commission on Graduates of Foreign Nursing Schools (CGFNS) Certificate. The CGFNS agency must forward the certificate to our office. This certification must signify a passing grade on the CGFNS English language and nursing practice proficiency examination as evidence of meeting similar qualifications of graduates of nursing programs in Missouri for the purpose of qualifying for admission to the licensure examination;

B. A photostatic copy of birth certificate (if a copy of birth certificate is not available, a copy of baptismal certificate, passport or notarized statement from authorized agency will be accepted as verification of name, date of birth and place of birth);

C. Photostatic copy of original license or certificate issued by the licensing agency where original licensure/registration was secured by examination;

D. Photostatic copy of marriage license/certificate (if applicable); **and**

[E. The certificate of licensure form from the licensing agency where the original registration/licensure by examination was secured; and]

[F.] E. The completed examination application with the required examination fee, one (1) two-inch by two-inch (2" × 2") portrait/photograph of the applicant, two (2) sets of his/her fingerprints, the fingerprinting fee as charged by the Missouri State Highway Patrol and Federal Bureau of Investigation and all the credentials shall be submitted to the Missouri State Board of Nursing.

AUTHORITY: sections 335.036(2) and (7), 335.046 and 335.051, RSMo 2000. Original rule filed Oct. 14, 1981, effective Jan. 14, 1982. For intervening history, please consult the *Code of State Regulations*. Amended: Filed March 15, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Nursing, Lori Scheidt, Executive Director, PO Box 656, Jefferson City, MO 65102, by fax at (573) 751-0075 or via e-mail at nursing@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 210—State Board of Optometry Chapter 2—General Rules

PROPOSED AMENDMENT

4 CSR 210-2.080 Certification of Optometrists to Use Pharmaceutical Agents. The board is proposing to amend section (1), add new sections (2) and (5), renumber the remaining sections accordingly and amend the newly renumbered sections (3), (4), and (6).

PURPOSE: The purpose of this proposed amendment is to combine the two (2) rules regarding pharmaceutical certification into one (1) rule, thereby eliminating the need for 4 CSR 210-2.081, which will be rescinded. The board is also proposing to eliminate obsolete examination requirements.

(1) No optometrist licensed in this state may use pharmaceutical agents in the practice of optometry unless that optometrist has been certified by the *[State Board of Optometry]* board as qualified to use those pharmaceutical agents in the practice of optometry.

(2) All applications for pharmaceutical certification must be made on forms provided by the board and must be accompanied by the pharmaceutical certification fee. The application must be accompanied by proof that the applicant has passed an examination approved by the board.

[[2]] (3) The board will certify optometrists currently licensed in this state as qualified to use pharmaceutical agents in the practice of optometry in accordance with the following guidelines:

(A) All applicants for certification must present official documentation **and/or** transcripts showing successful completion of *[at least six (6)-credit (ninety-six (96) classroom) hours of study in general and ocular pharmacology and]* at least one hundred (100) hours of approved, supervised, clinical training in the examination, diagnosis and treatment of conditions of the human eye and adnexa, in a program supervised by a board-certified ophthalmologist. The board cannot approve any credit hours unless they were taught by an institution having facilities for both the didactic and clinical instruction in pharmacology, which is approved by the board and which is accredited by a regional or professional accrediting organization which is recognized by the Council on Postsecondary Accreditation or the United States Department of Education or its successors. *No applicant will be admitted to the examination until the documentation required in this rule has been received and approved by the board;* **and**

(B) All applicants for certification must pass *[the]* a written examination in pharmacology administered or approved by the board; **and**.

[[C]] All applications for certification (see 4 CSR 210-2.081) must be submitted on the forms provided by the board and must be accompanied by the application fee.]

[[3]] (4) The board may not accept any documentation required by subsection *[[2]](3)(A)* of this rule unless the course of studies it reflects is certified by the institution as being comparable in content to those courses in general and ocular pharmacology required by other licensing boards whose licensees or registrants are permitted the use of pharmaceutical agents in the course of their professional practice.

(5) Applicants certified to use pharmaceutical agents in another state whose requirements for certification are substantially equivalent as those required in this state may be granted a certification to use pharmaceutical agents in Missouri without examination.

[(4)](6) Use of oral analgesic agents shall be limited to those specific uses as follows:

(A) Prior to the administration of oral analgesic therapy, a complete and careful history of current medications and past drug allergies and sensitivities must be documented in the record, with particular attention to interaction of analgesics with other systemic medications. Optometrists using these agents must be thoroughly familiar with the interactions of these drugs with other systemic medications;

(B) Prescription strength oral analgesic agents and particularly controlled substances are rarely required for the relief of pain in ocular conditions. Therefore, they may be used only for pain of which *the etiology can be clearly demonstrated* and in which, in the judgment of the optometrist, sufficient relief would not be obtained with noncontrolled substances;

(C) Ocular pain may not be treated with controlled substances over forty-eight (48) hours without referral or consultation with a physician skilled in the treatment of the eye unless marked improvement in the underlying condition can be demonstrated;

(D) When prescribing oral analgesic agents which are categorized as controlled substances, only scheduled oral agents that have been shown to be effective for ocular pain may be prescribed;

(E) Prescriptions for controlled substances *may not* exceed in number the recommended analgesic dosage for the duration of the prescription;

(F) Prescriptions for controlled substances *may not* be refilled without further examination and follow-up care; and

(G) Optometrists may not maintain inventories of controlled substances for dispensing or administering.

AUTHORITY: sections 336.160 and 336.200, *RSMo 2000* [336.220, *RSMo Cum. Supp. 1996*]. Original rule filed Oct. 14, 1981, effective Jan. 14, 1982. Amended: Filed March 14, 1982, effective June 11, 1982. Amended: Filed Aug. 4, 1986, effective Nov. 13, 1986. Amended: Filed Nov. 15, 1989, effective March 11, 1990. Amended: Filed Aug. 15, 1991, effective Jan. 13, 1992. Amended: Filed Oct. 15, 1996, effective April 30, 1997. Amended: Filed March 15, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri State Board of Optometry, Sharlene Rimiller, Executive Director, PO Box 1335, Jefferson City, MO 65102, by faxing (573) 751-8216 or via e-mail at optom@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 210—State Board of Optometry Chapter 2—General Rules

PROPOSED RESCISSION

4 CSR 210-2.081 Examinations of Optometrists for Certification to Use Pharmaceutical Agents. This rule established the examinations approved by the board to meet the examination requirement for certification to use pharmaceutical agents.

PURPOSE: The purpose of this rescission is to combine the two (2)

rules regarding pharmaceutical certification into one (1) rule, thereby eliminating the need for 4 CSR 210-2.081, which will be rescinded.

AUTHORITY: sections 336.160.1. and 336.220, *RSMo 2000*. Original rule filed Nov. 4, 1986, effective Jan. 30, 1987. Amended: Filed May 15, 1987, effective Sept. 11, 1987. Amended: Filed March 4, 1991, effective July 8, 1991. Amended: Filed Aug. 13, 1991, effective Jan. 13, 1992. Amended: Filed May 26, 1993, effective Nov. 8, 1993. Amended: Filed March 18, 1996, effective Sept. 30, 1996. Amended: Filed June 28, 2002, effective Dec. 30, 2002. Rescinded: Filed March 15, 2004.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri State Board of Optometry, Sharlene Rimiller, Executive Director, PO Box 1335, Jefferson City, MO 65102, by faxing (573) 751-8216 or via e-mail at optom@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 235—State Committee of Psychologists Chapter 1—General Rules

PROPOSED AMENDMENT

4 CSR 235-1.020 Fees. The committee is proposing to add subsections (1)(G) and (1)(H) and renumber the remaining subsections accordingly.

PURPOSE: This rule establishes the fees to place a license on inactive status and to renew an inactive license.

(1) The following fees are established for the State Committee of Psychologists and are payable to the State Committee of Psychologists:

(G) Inactive License Fee	\$100.00
(H) Reactivation Fee	\$150.00
[(G)] (I) Licensure Verification/Transfer of Score to Other States Fee	\$25.00
[(H)] (J) Replacement of Wall-Hanging License Fee	\$25.00
[(I)] (K) Insufficient Funds Check Service Charge	\$25.00
[(J)] (L) Prior Review Fee (educational experience)	\$50.00
[(K)] (M) Prior Review Fee (postdegree supervision)	\$50.00
[(L)] (N) Health Service Provider Application Fee	\$100.00
[(M)] (O) Health Service Provider Biennial Renewal Fee	\$100.00

AUTHORITY: sections 337.030[.4], *RSMo Supp. 2003* and 337.050, *RSMo 2000*. Emergency rule filed Dec. 9, 1981, effective Jan. 11, 1982, expired April 4, 1982. Original rule filed Dec. 9, 1981, effective April 4, 1982. For intervening history, please consult the *Code of State Regulations*. Amended: Filed March 15, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri State Committee of Psychologists, Pam Groose, Executive Director, PO Box 1335, Jefferson City, MO 65102-0613 or at scop@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

Director, PO Box 1335, Jefferson City, MO 65102-0613 or at scop@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 235—State Committee of Psychologists
Chapter 1—General Rules**

PROPOSED AMENDMENT

4 CSR 235-1.050 Renewal of License. The committee is proposing to add section (4).

PURPOSE: This amendment outlines the procedure to place a license in an inactive status and to reactivate an inactive license.

(4) Licensees who request to be classified as inactive pursuant to section 337.030.5, RSMo, may maintain their inactive status and receive a license indicating their inactive status by paying the inactive license renewal fee as provided in 4 CSR 235-1.020. Holders of an inactive license need not complete the continuing education requirement. However, a holder of an inactive license shall not have his/her license reactivated until s/he pays the required reactivation fee, and in addition, submits proof of having completed forty (40) continuing education hours within the two (2) years immediately prior to the date of reactivation. If a holder of an inactive license reactivates at the time of renewal, the licensee shall only be required to pay the renewal fee, and in addition, submit proof of having completed forty (40) continuing education hours within the two (2) years immediately prior to the date of reactivation.

AUTHORITY: sections 337.030, RSMo Supp. 2003 and 337.050, [9., RSMo Supp. 1989] RSMo 2000. Original rule filed Aug. 11, 1983, effective Dec. 11, 1983. Amended: Filed May 4, 1987, effective Aug. 13, 1987. Amended: Filed Oct. 4, 1988, effective Dec. 29, 1988. Amended: Filed July 30, 1991, effective Feb. 6, 1992. Amended: Filed March 15, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will cost private entities an estimated five thousand dollars (\$5,000) biennially beginning in FY05 and seven hundred fifty dollars (\$750) annually beginning in FY06 and continuing annually for the life of the rule. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Missouri State Committee of Psychologists, Pam Groose, Executive

PRIVATE ENTITY FISCAL NOTE

I. RULE NUMBER

Title 4 - Department of Economic Development

Division 235 - State Committee of Psychologists

Chapter 1 - General Rules

Proposed Amendment 4 CSR 235-1.050 Renewal of License

Prepared January 23, 2002 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Biennially

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the of business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
50	Licensees (psychologist inactive fee - \$100)	\$5,000

Estimated Biennial Cost Beginning in FY06 and Continuing for the Life of the Rule **\$5,000**

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the of business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
5	Licensees (psychologist reactivation fee - \$150)	\$750

Estimated Annual Cost Beginning Two Years After Implementation of the Rule and Continuing Annually for the Life of the Rule **\$750**

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The figures reported above are based merely on data gathered by the board for this fiscal note and is merely an estimate of future activity.
2. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

NOTE: The board is statutorily obligated to enforce and administer the provisions of Sections 337.010-337.093, RSMo. Pursuant to Section 337.037, RSMo, the board shall by rule and regulation set the amount of fees authorized by Sections 337.010-337.093, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Sections 337.010-337.093, RSMo.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 32—Telecommunications Service**

PROPOSED RULE

**4 CSR 240-32.200 General Provisions for the Assignment,
Provision and Termination of 211 Service**

PURPOSE: This rule applies to the assignment and provision of 211 service and the commission's application requirements for Information and Referral Services Providers. This rule is intended to enhance the ability of the public to access services that provide free information and referral to community resources in situations that are not immediately life-endangering, but still represent a serious but less urgent threat to basic human needs and individuals' health or welfare.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) Definitions. For the purposes of 4 CSR 240-32.200, the following definitions are applicable:

(A) 211 is an abbreviated dialing code assigned by the Federal Communications Commission for community information and referral services.

(B) 211 Network is the system of 211 providers authorized by the commission that provide Information and Referral (I&R) services via 211 throughout the state of Missouri.

(C) Abbreviated dialing code is a three (3)-digit dialing pattern which enables callers to connect to a location in the telecommunications network that otherwise would be accessible only via a seven (7)-or ten (10)-digit telephone number. The telecommunications network must be preprogrammed to translate the three (3)-digit code into the appropriate seven (7)-or ten (10)-digit telephone number and route the call accordingly.

(D) Accreditation is a process by which the Alliance of Information and Referral Systems determines whether information and referral programs are in compliance with the standards as set forth in the *Standards for Professional Information and Referral*, 4th edition, revised October 2002.

(E) Alliance of Information and Referral Systems (AIRS) is a nonprofit, professional membership organization for information and referral providers.

(F) Applicant is a nonprofit organization as defined by section 501(c)(3) of the federal tax code that requests to be authorized by the commission to become a Missouri I&R Provider.

(G) Exchange is used as defined in section 386.020, RSMo 2000.

(H) Human services are services which include, but are not limited to, activities that help people to become more self-sufficient, sustain independence, strengthen family relationships, support personal and social development and ensure the well-being of individuals, families, groups and communities. Specific kinds of human services include ensuring that people have access to adequate food, shelter, clothing and transportation; financial resources to meet their needs; consumer education and decision support; legal services; training and employment; health and mental health care including substance abuse services; both routinely and in times of disaster or other emergencies.

(I) Information and Referral Provider (I&R Provider) is an organization which helps match people with requested services. The I&R Provider acts as an intermediary, matching the person with the necessary combination of human services that will address the individual's needs.

(J) Missouri I&R Provider is an I&R Provider that has received authority pursuant to this rule.

(K) Qualified human services entity is an entity offering human services and complying with AIRS standards for database inclusion thus making it eligible to be included in a Missouri I&R Provider's database.

(L) *Standards for Professional Information and Referral*, 4th edition, revised October 2002 is the document published by the Alliance of Information and Referral Systems that defines the national standards for information and referral programs and systems.

(M) Telecommunications company is used as defined in section 386.020, RSMo 2000.

(N) Volunteer or donation management means assisting individuals or organizations to provide volunteer services to the community.

(2) When a telecommunications company receives a request from an entity to use 211 as the Information and Referral Provider for a geographic area, the telecommunications company shall:

(A) Ensure that any entities that were using 211 at the local level prior to July 31, 2000, relinquish use of the code for noncompliant services;

(B) Take steps necessary (such as reprogramming switch software) to complete 211 calls from its subscribers to the Information and Referral Provider;

(C) Submit a tariff to the commission, if no tariff exists, incorporating rates, terms and conditions for 211 service; the tariff shall include rates established pursuant to the provisions of section 392.220(3), RSMo; and

(D) Determine that the entity is a Missouri I&R Provider or has submitted an application to become an authorized I&R Provider in Missouri.

(3) Entities interested in becoming a Missouri I&R Provider shall file an application with the commission.

(A) All applications shall include a statement that the applicant meets the following criteria:

1. Applications must comply with 4 CSR 240-2.060(1);

2. A statement that the applicant is a not-for-profit organization as defined by section 501(c)(3) of the federal tax code;

3. A statement that the 211 telephone line will be monitored twenty-four (24) hours a day, seven (7) days a week, by:

A. The applicant's personnel;

B. The personnel of another Missouri I&R Provider under subcontract with the applicant; or

C. The personnel of a qualified human services entity under subcontract with the applicant;

4. The 211 telephone line shall not be answered through an answering service or answering machine;

5. Will adhere to the Alliance of Information and Referral Systems, Incorporated *Standards for Professional Information and Referral*, 4th edition, revised October 2002, which is incorporated herein by reference, and is AIRS accredited, or has initiated, or will initiate, the written application process and shall become accredited within three (3) years;

6. Offers comprehensive services pursuant to the AIRS standards;

7. Shares resource database information with other Missouri I&R Providers;

8. Works collaboratively and has written agreements with specialized information and referral systems which shall include crisis centers, child care resource and referral programs, elderly help-lines, homeless coalitions, designated emergency management systems, 911 and 311 systems, as applicable;

9. Uses a method common to all Missouri I&R Providers to measure and evaluate outcomes for the operation of a 211 call center;

10. Has an established automated information tracking system that maintains call center data that shall include the following statistics: call volume, number of abandoned calls, average speed of answering, and average call length;

11. Tracks information on inquirer needs, unmet needs, and barriers to services and shares this data with other Missouri I&R Providers, and local and state organizations;

12. Removes or excludes human services entities from the Missouri I&R Providers' database for failure to deliver service, fraud, misrepresentation and discrimination;

13. Maintains a computerized information and referral database that has up-to-date information and resource data and the capacity to collect caller information;

14. Ensures quality of service and caller and customer satisfaction through follow-up and written outcome evaluations;

15. Publicizes 211 services through a written public awareness, marketing, advertising, and education plan to inform the public regarding available services;

16. Provides teletype (TTY) services for speech and hearing impaired individuals and multi-lingual accessibility either on-site, or through access to translators; and

17. Has formal agreements with clearinghouse agencies that provide volunteer or donation management services.

(B) In addition to the requirements of subsection (3)(A), the application must include:

1. A statement that the applicant possesses sufficient technical, financial and managerial resources and abilities to become the I&R Provider for the requested telephone exchanges;

2. A statement as to the applicant's ability and willingness to abide by commission rules and policies; and

3. A statement that sets forth the exchange(s) to be served.

(4) Upon receipt of an application, the commission shall issue notice to all incumbent local exchange telecommunications companies in the exchange(s) to be served, all facilities-based alternative local exchange telecommunications companies certificated to provide basic local telecommunications service, all human services entities listed in the yellow pages under the categories "Human Service Organizations" and "Social Service Organizations" for the exchanges to be served, all county seats for the requested exchanges, and all city governments in cities within the requested exchanges that have a population of five thousand (5,000) or more persons.

(A) Any other party interested in becoming the Missouri I&R Provider for the geographic area to be served shall submit an application in compliance with subsections (3)(A) and (B) above within thirty (30) days of the notice issued in section (4) above.

(B) The commission will grant an entity's application to become a Missouri I&R Provider unless it finds that granting the application is not in the public interest.

(C) The commission will authorize only one (1) I&R Provider for each telephone exchange. This shall not preclude a Missouri I&R Provider from serving multiple telephone exchanges.

(5) A Missouri I&R Provider shall comply with the statements set forth in its application.

(6) To ensure the efficient use of the 211 number for information and referral services, the Missouri I&R Provider shall be required to coordinate with all other information and referral service providers and the telecommunications companies within its designated telephone exchange or exchanges.

(7) A Missouri I&R Provider will be entitled to use the three (3) digit 211 abbreviated dialing code to serve the community for a period of three (3) years.

(8) If the applicant wishes to continue as the authorized Missouri I&R Provider after the three (3)-year period, the applicant must reapply for authority with the commission.

(A) Reapplication shall be submitted at least ninety (90) days prior to the expiration of the Missouri I&R Provider's authorization.

(B) Reapplication shall include all items listed under subsections (3)(A) and (B) above.

(9) If a Missouri I&R Provider loses AIRS accreditation, within forty-five (45) days of the loss of accreditation, the provider shall submit to the commission for approval a plan to secure AIRS accreditation.

(10) If the commission receives a formal complaint filed pursuant to Chapter 2 of 4 CSR 240 that a Missouri I&R Provider is in violation of the AIRS criteria, or of a statute, rule, order or tariff applicable to the provision of 211 service, or that its continued authorization is not in the public interest, the commission shall initiate an investigation of the complaint within twenty-one (21) calendar days after the filing of the formal complaint and take action as appropriate including, but not limited to, revocation of the Missouri I&R Provider's authorization.

(11) The commission shall revoke the use of the 211 dialing code from any entity that is not authorized by the commission.

(A) Prior to revocation, the commission shall notify the entity using the 211 number that it has thirty (30) days from receipt of the notification to file an application seeking authority to become a Missouri I&R Provider.

(B) If the entity using the 211 number fails to meet the commission's authorization criteria within thirty (30) days of receipt of revocation notice, the commission, shall direct the appropriate local exchange company(s) to revoke use of the 211 number.

(12) A Missouri I&R Provider will be responsible for all costs of provisioning service, including nonrecurring and recurring charges incurred by the use of the abbreviated dialing code 211.

(13) Neither a telephone company nor a Missouri I&R Provider shall charge end users for 211 service.

(14) Any qualified human services entity may be listed in the Missouri I&R Provider's database at no charge.

(A) To be listed in the 211 database, a qualified human services entity must provide the following information to the Missouri I&R Provider:

1. Contact information;

2. A description of provided services; and

3. A list of the counties where service is provided.

(B) Missouri I&R Providers shall inform qualified human services entities that inclusion in the database is a privilege rather than a right and that they may be removed or excluded from the database for failure to deliver service, fraud, misrepresentation and discrimination.

(15) The 211 abbreviated dialing code shall not be used for commercial advertisements or solicitation.

(16) A Missouri I&R Provider shall submit to the commission an annual report documenting information and referral services provided—

(A) The annual report shall include geographical areas served, call volume, number of abandoned calls, average speed of answering, average call length, information on inquirer needs, unmet needs, and barriers to services;

(B) The annual report shall cover the previous year's activities and shall follow the state's fiscal year from July 1 through June 30; and

(C) The report shall be submitted to the manager of the Telecommunications Department on or before August 1 of each year.

(17) All telecommunications companies and Missouri I&R Providers operating pursuant to the emergency rule shall meet any additional requirements in compliance with this rule within six (6) months after its effective date. All new applicants shall comply with all portions of this rule beginning on its effective date.

AUTHORITY: sections 386.040 and 386.250 RSMo 2000 and 392.200, RSMo Supp. 2003. Emergency rule filed Feb. 9, 2004, effective March 15, 2004, expires Sept. 10, 2004. Original rule filed March 12, 2004.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule is estimated to cost private entities approximately nine thousand dollars (\$9,000) per year. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before May 17, 2004, and should include a reference to Commission Case No. TX-2004-0154. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <<http://www.psc.state.mo.us/efis.asp>>. A public hearing regarding this proposed rule is scheduled for May 26, 2004, at 10:00 a.m. in the commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: Missouri Department of Economic Development

Division: Missouri Public Service Commission

Chapter: Telecommunications Service

Type of Rulemaking: Proposed

Rule Number and Name: 4 CSR 240-32.200 General Provisions for the Assignment,
Provision and Termination of 211 Service.

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification* by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
4	Class A Local Telephone Companies	\$0
37	Class B Local Telephone Companies	\$0
15	Class C Local Telephone Companies	\$0
0	Class Interexchange Companies	\$0
3	Missouri I & R Provider	\$9,000
	All entities	\$9,000

* Class A Telephone Companies are incumbent local telephone companies with more than \$100,000,000 annual revenues system wide; Class B Telephone Companies are incumbent local telephone companies with \$100,000,000 annual revenues or less system wide; Class C Local Telephone Companies are all other companies certificated to provide basic local exchange telecommunications services, Class Interexchange Companies are long distance providers; Missouri I & R Providers are non-profit organizations as defined by Section 501(c)(3) of the federal tax code that requests to be authorized by the Commission to be a 211 Information and Referral Provider.

III. WORKSHEET

1. The proposed rule applies to all incumbent local exchange telecommunications companies and all facilities-based competitive local exchange telecommunications companies certificated by the Missouri Public Service Commission that receive a request for the provision of 211 service in Missouri. The proposed rule also applies to any not-for-profit entities authorized by the Commission as the Information and Referral Provider for an area.
2. Class A, B, and C local telecommunications companies are able to recover costs associated with provisioning 211 service through tariffed rates.
3. It is an entity's choice to submit an application to become an Information and Referral Provider, not a requirement established by this proposed rulemaking.
4. Most rule requirements are imposed by the Alliance of Information and Referral Systems (AIRS) and not separate requirements imposed by this proposed rulemaking. Cost to receive AIRS accreditation as required by the rule is \$3,000.

IV. ASSUMPTIONS

1. Fiscal year 2004 dollars were used to estimate costs. No adjustment for inflation is applied.
2. Estimates assume no sudden change in technology that would influence costs.
3. Affected entities are assumed to be in compliance with all other Missouri Public Service Commission rules and regulations.
4. Fiscal impact assumes three separate not-for-profit entities will seek authorization to serve as a Missouri authorized Information and Referral Provider in any given year.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 263—State Committee for Social Workers
Chapter 1—General Rules**

PROPOSED AMENDMENT

4 CSR 263-1.035 Fees. The committee is proposing to amend the original Purpose statement and section (1).

PURPOSE: The State Committee for Social Workers is statutorily obligated to enforce and administer the provisions of sections 337.600–337.689, RSMo. Pursuant to sections 337.612 and 337.662, RSMo, the committee shall set by rule the appropriate amount of fees so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the committee for administering the provisions of 337.600–337.689, RSMo. Therefore, the committee is reducing the fees associated with licensure. This amendment establishes the inactive license fee and rennumbers the remaining subsections accordingly.

PURPOSE: This rule[s] establishes the fees for both clinical and baccalaureate social workers.

(1) The following fees are established by the committee and are payable in the form of a cashier's check, personal check or money order:

(A) Application/Initial License Fee [*as a Licensed Clinical Social Worker*]

1. October–January (two (2)-year license) [*\$200.00*] **\$130.00**
2. February–May (one and one-half
(1 1/2)-year license) [*\$150.00*] **\$98.00**
3. June–September (one (1)-year license) [*\$100.00*] **\$65.00**

(B) Registration of Supervision Fee

[*as a Licensed Clinical Social Worker*] **\$25.00**

(This is an initial one-time fee)

(C) Two (2)-Year License Renewal Fee

[*as a Licensed Clinical Social Worker*] **\$100.00** **\$65.00**

[(D) Application/Initial License Fee as a Licensed
Baccalaureate Social Worker]

1. October–January (two (2)-year license) **\$200.00**
2. February–May (one and one-half
(1 1/2)-year license) **\$150.00**
3. June–September (one (1)-year license) **\$100.00**

(E) Registration of Supervision Fee as a

Licensed Baccalaureate Social Worker **\$ 25.00**

(This is an initial one-time fee)]

(F) Two (2)-Year License Renewal Fee as a

Licensed Baccalaureate Social Worker **\$100.00** **\$100.00**

[(G)] (D) Delinquent Fee for Failure to Obtain a

License or Timely Renew a License [*\$100.00*] **\$65.00**

[(H)] (E) Restoration of Lapsed License Fee [*\$200.00*] **\$130.00**

[(Sixty-one (61) days to two (2) years from

date of expiration— **\$100.00**

renewal fee plus delinquent) **\$100.00**

[(I)] (F) [Reciprocity Application Fee]

Inactive Status [*\$225.00*] **\$25.00**

[(J)] (G) [Wall-Hanging Replacement Fee]

Reciprocity Application Fee [*\$ 5.00*] **\$146.00**

[(K)] (H) [Insufficient Funds Check Charge Fee]

Wall-Hanging Replacement Fee [*\$ 25.00*] **\$ 5.00**

(I) Insufficient Funds Check Charge Fee **\$ 25.00**

AUTHORITY: sections 337.612 and 337.677, RSMo Supp. [2001] 2003 and 337.627, RSMo 2000. Original rule filed Jan. 20, 1999, effective July 30, 1999. Amended: Filed Oct. 30, 2002, effective June 30, 2003. Amended: Filed March 15, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will save private entities an estimated ten thousand two hundred thirty dollars (\$10,230) annually and one hundred thousand seven hundred eighty-five dollars (\$100,785) biennially for the life of the rule. It is anticipated that the savings will recur for the life of the rule, may vary with inflation and is expected to decrease at the rate projected by the Legislative Oversight Committee. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Vanessa Beauchamp, Executive Director, State Committee for Social Workers, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 526-3489, or via e-mail at lcsww@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

PRIVATE ENTITY FISCAL NOTE

I. RULE NUMBER

Title 4 -Department of Economic Development

Division 263 - State Committee for Social Workers

Chapter 1 - General Rules

Proposed Amendment 4 CSR 263-1.035 Fees

Prepared December 4, 2003 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Annual

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost saving of the rule by affected entities:
65	Applicants (October-January - \$70 decrease)	\$4,550.00
50	Applicants (February-May - \$52 decrease)	\$2,600.00
88	Applicants (June-September - \$35 decrease)	\$3,080.00
Estimated Cost Savings Compliance for the Life of the Rule		\$10,230.00

Biennial

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost saving of the rule by affected entities:
2165	Licensee (2 Year License Fee - \$35 decrease)	\$75,775.00
130	Licensee (Delinquent Fee - \$35 decrease)	\$4,550.00
Estimated Cost Savings Compliance for the Life of the Rule		\$100,785.00

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The board is statutorily obligated to enforce and administer the provisions of sections 337.600-337.689, RSMo. Pursuant to Section 337.612, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 337.600-337.689, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of Chapter 337, RSMo. This proposed amendment is necessary because the board's projected revenue will not support the expenditures necessary to enforce and administer the provisions of sections 337.600-337.689, RSMo, which will result in an endangerment to the health, welfare, and safety of the public.
2. It is anticipated that the savings will recur for the life of the rule, may vary with inflation and is expected to decrease at the rate projected by the Legislative Oversight Committee.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 263—State Committee for Social Workers
Chapter 2—Licensure Requirements**

PROPOSED AMENDMENT

4 CSR 263-2.032 Registration of Supervised Social Work Experience. The committee is amending sections (1)–(3), (5) and (7).

PURPOSE: This amendment provides clarification for the registration of supervision.

(1) Supervised social work experience shall be registered for approval by the committee **within thirty (30) days of the beginning of supervision**. This will ensure that the supervision is acceptable to the committee prior to applying for licensure. **In the event the applicant fails to pre-approve their supervisor(s), or are applying through reciprocity, the committee at its discretion, may review the supervision for compliance and consideration of licensure.**

(2) Registration of supervision for social workers beginning the practice of clinical social work experience **or the practice of baccalaureate social work** under supervision in another state and intending to apply for licensure in Missouri is accepted by the committee if the supervisor holds a license in the other state, determined by the committee, to be equivalent to Missouri's.

(3) The applicant for registration of supervision shall—

(B) Submit a completed registration of supervision form provided by the committee *[as soon as supervision has commenced]* **within thirty (30) days of the beginning of supervision; and/**

(C) *[Pay the one (1)-time registration of supervision fee as prescribed by the committee.]* **Submit a copy of a contract negotiated between the applicant and the proposed supervisor. However, should the contract be terminated before the completion of the minimum hours required, the supervisee is responsible for negotiating a new contract and obtaining all evaluation and termination forms required to document prior supervision. Such a contract shall not be valid if the supervisor and supervisee have a relationship that could affect the employment or benefits of the supervisor, and the relationship could in any way, bias or compromise the supervisor's evaluation of the supervisee; and**

(D) **Pay the one (1)-time registration of supervision fee as prescribed by the committee.**

(5) Whenever a supervisee changes a supervisor or adds a supervisor or new setting, a *[new Registration of Supervision] Change of Status* form, provided by the committee, shall be submitted to the committee. **There is no fee for updating a change of supervision and/or setting.**

(7) *[Supervisees shall report any change of supervisor, setting, or both, in writing on a new Registration of Supervision form, provided by the committee. There is no fee for updating a change of supervision and/or setting.]* The committee shall notify both supervisee and registered supervisor, in writing, of the committee's approval or refusal of the registration of supervision. **A registration of supervision will not be reviewed until all items required by section (3) of this rule are received.**

AUTHORITY: sections 337.627, RSMo 2000 and 337.600, 337.612, 337.615, **337.650**, 337.665 and 337.677, RSMo Supp. [2001] 2003. Original rule filed Sept. 18, 1990, effective Feb. 14, 1991. Amended: Filed Jan. 11, 1995, effective June 30, 1995. Rescinded: Filed Dec. 30, 1998, effective July 30, 1999. Readopted: Filed Jan. 20, 1999, effective July 30, 1999. Amended: Filed Oct. 30, 2002, effective June 30, 2003. Amended: Filed March 15, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Vanessa Beauchamp, Executive Director, State Committee for Social Workers, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 526-3489, or via e-mail at lcsww@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 263—State Committee for Social Workers
Chapter 2—Licensure Requirements**

PROPOSED AMENDMENT

4 CSR 263-2.045 Provisional Licensed Clinical Social Worker. The committee is proposing to amend section (7).

PURPOSE: This amendment changes the name of the *Registration of Supervision Form* to *Change of Status Form*.

(7) Provisional licensed clinical social workers shall report any change of supervisor, setting, or both in writing on a *[new Registration of Supervision] Change of Status* form provided by the committee. There is no fee for updating a change of supervision and/or setting. The committee shall notify both the provisional licensed clinical social worker and registered supervisor, in writing, of the committee's approval or refusal of the registration of supervision.

AUTHORITY: sections 337.627 and 337.630, RSMo 2000 and 337.600, 337.612 and 337.615, RSMo Supp. [2001] 2003. Original rule filed Dec. 30, 1998, effective July 30, 1999. Amended: Filed Oct. 30, 2002, effective June 30, 2003. Amended: Filed March 15, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Vanessa Beauchamp, Executive Director, State Committee for Social Workers, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 526-3489, or via e-mail at lcsww@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 263—State Committee for Social Workers
Chapter 2—Licensure Requirements**

PROPOSED AMENDMENT

4 CSR 263-2.047 Provisional Licensed Baccalaureate Social Worker. The committee is proposing to amend section (7).

PURPOSE: This amendment changes the name of the Registration of Supervision Form to Change of Status Form.

(7) Provisional licensed baccalaureate social workers shall report any change of supervisor, setting, or both in writing on a [new Registration of Supervision] Change of Status form provided by the committee. There is no fee for updating a change of supervision and/or setting. The committee shall notify both the provisional licensed baccalaureate social worker and registered supervisor, in writing, of the committee's approval or refusal of the registration of supervision.

AUTHORITY: sections 337.650, 337.653, 337.665[.4] and 337.677, RSMo Supp. [2001] 2003. Original rule filed Oct. 30, 2002, effective June 30, 2003. Amended: Filed March 15, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Vanessa Beauchamp, Executive Director, State Committee for Social Workers, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 526-3489, or via e-mail at lcsww@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 263—State Committee for Social Workers Chapter 2—Licensure Requirements

PROPOSED AMENDMENT

4 CSR 263-2.060 Licensure by Reciprocity as a Licensed Clinical Social Worker. The committee is amending subsection (1)(C).

PURPOSE: This amendment specifies the requirements related to licensure.

(1) The committee may issue a license by reciprocity to individuals who meet the licensure requirements as set forth in the rules promulgated by the committee and provide the following:

(C) Verification form provided by the committee to be completed by the regulatory entity verifying that the individual holds a valid, unrevoked, undisciplined, unrestricted, unexpired license as a clinical social worker in that state, territory, province or country whose licensing or certification requirements **at the time the application is submitted to the committee** are substantially similar to those in Missouri, *[as determined by the committee]* **at the time the application for reciprocity is submitted to the committee**. The applicant has the burden of providing the information necessary for determination of this issue.

1. The applicant for licensure by reciprocity shall furnish to the committee true and accurate copies of the licensure law from the state in which s/he is licensed and/or certified.

AUTHORITY: sections 337.627 and 337.630, RSMo 2000 and 337.600, 337.612 and 337.615, RSMo Supp. [2001] 2003. Original rule filed Sept. 18, 1990, effective Feb. 14, 1991. Rescinded

and readopted: Filed Dec. 30, 1998, effective July 30, 1999. Amended: Filed Nov. 13, 2002, effective June 30, 2003. Amended: Filed March 15, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Vanessa Beauchamp, Executive Director, State Committee for Social Workers, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 526-3489, or via e-mail at lcsww@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 263—State Committee for Social Workers Chapter 2—Licensure Requirements

PROPOSED AMENDMENT

4 CSR 263-2.062 Licensure by Reciprocity as a Licensed Baccalaureate Social Worker. The committee is amending subsection (1)(C).

PURPOSE: This amendment specifies the requirements related to licensure.

(1) The committee may issue a license by reciprocity to individuals who meet the licensure requirements as set forth in the rules promulgated by the committee and provide the following:

(C) Verification form provided by the committee to be completed by the regulatory entity verifying that the individual holds a valid, unrevoked, undisciplined, unrestricted, unexpired license as a baccalaureate social worker in that state, territory, province or country whose licensing or certification requirements **at the time the application is submitted to the committee** are substantially similar to those in Missouri, *[as determined by the committee]* **at the time the application for reciprocity is submitted to the committee**. The applicant has the burden of providing the information necessary for determination of this issue.

1. The applicant for licensure by reciprocity shall furnish to the committee true and accurate copies of the licensure law from the state in which s/he is licensed and/or certified.

AUTHORITY: sections 337.650, 337.665 and 337.677.1, RSMo Supp. [2001] 2003. Original rule filed Oct. 30, 2002, effective June 30, 2003. Amended: Filed March 15, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost state private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Vanessa Beauchamp, Executive Director, State Committee for Social Workers, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 526-3489, or via e-mail at lcsww@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication

of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 263—State Committee for Social Workers
Chapter 2—Licensure Requirements**

PROPOSED AMENDMENT

4 CSR 263-2.085 Restoration of [the Clinical Social Work] License. The board is proposing to amend the title, Purpose and the language in sections (2) and (3).

PURPOSE: This amendment changes the word inactive to expired.

PURPOSE: This rule outlines the process for restoring a license to practice as a clinical social worker or a baccalaureate social worker.

(2) Failure of a licensee to renew a license for a period of more than sixty (60) days after the expiration of the license will cause the license to become *[inactive]* **expired**.

(3) Any licensee whose license has been *[inactive]* **expired** who, within two (2) years of the expiration date of the license, wishes to restore the license, shall make application to the committee by submitting an application for Restoration of Licensure and the restoration fee(s) as set forth in the rules promulgated by the committee.

AUTHORITY: sections 337.627 and 337.630, RSMo [Supp. 1998] 2000 and 337.600, 337.612, 337.618, 337.650, 337.662, 337.677, RSMo Supp. 2003. Original rule filed Dec. 30, 1998, effective July 30, 1999. Amended: Filed March 15, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Vanessa Beauchamp, Executive Director, State Committee for Social Workers, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 526-3489, or via e-mail at lcsww@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 263—State Committee for Social Workers
Chapter 2—Licensure Requirements**

PROPOSED RULE

4 CSR 263-2.090 Inactive Status

PURPOSE: This rule outlines the process of requesting inactive status to maintain a license as a licensed social worker.

(1) A licensee may request in writing that his/her license be placed on an inactive status. An inactive license shall be renewed biennially. Failure to receive a renewal notice shall not relieve the licensee of the obligation to renew the inactive license and pay the required fee

prior to the expiration date of the inactive license. Renewals shall be postmarked no later than the expiration date of the license to avoid the late renewal penalty fee as defined in rules promulgated by the committee.

(2) Each inactive licensee shall provide the committee, at the time of application for renewal of the inactive license, with a completed renewal form issued by the committee that shall contain updated information since the preceding application/renewal period.

(3) The licensee shall not practice, as a clinical or baccalaureate social worker in the state of Missouri while the license is inactive.

(4) Licensees granted an inactive license by the committee shall place the word "inactive" adjacent to their Licensed Clinical or Baccalaureate Social Worker title on any business card, letterhead or any other document or device.

(5) If an inactive licensee wishes to return a license to active status the licensee shall complete a Licensed Clinical or Baccalaureate Social Worker renewal form and pay the renewal fee as stated in the rules promulgated by the committee. In addition the licensee shall:

(A) Furnish evidence of completion of at least thirty (30) hours of continuing education within the prior two (2) years, or agree to complete thirty (30) hours within one (1) calendar year from the date of reactivation; or

(B) Successfully complete an examination approved by the committee prior to reactivation of their license.

(6) In addition to the requirements set forth in section (5) above, a licensee whose license is inactive for five (5) years or more and has not maintained sixty (60) hours of continuing education within five (5) years shall be required to successfully complete an examination approved by the committee prior to reactivation of their license.

(7) The inactive license fee is established in 4 CSR 263-1.035.

AUTHORITY: sections 620.150, RSMo 2000 and 337.600 and 337.677, RSMo Supp. 2003. Original rule filed March 15, 2004.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with Vanessa Beauchamp, Executive Director, State Committee for Social Workers, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 526-3489, or via e-mail at lcsww@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 263—State Committee for Social Workers
Chapter 3—Ethical Standards/Disciplinary Rules**

PROPOSED AMENDMENT

4 CSR 263-3.020 Moral Standards. The board is proposing to amend sections (1)–(7).

PURPOSE: *The purpose of this amendment is to implement changes made to sections 337.612–337.689, RSMo pursuant to House Bill 567 of the 91st General Assembly.*

(1) The public must be protected from those who are not qualified to be licensed *[clinical]* social workers, provisional licensed *[clinical]* social workers, temporary permit holders, or registrants by reason of a deficiency in education, experience, moral standards or other relevant factors, but who nevertheless attempt to or actually practice clinical social work **or baccalaureate social work**. To assure the maintenance of high standards of the profession of clinical **or baccalaureate** social work, licensees, temporary permit holders and registrants should assist the committee in promulgating, enforcing and improving requirements for admission to and for the practice of clinical social work **or baccalaureate social work**.

(2) A licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder and registrant shall not—

(3) Prior to recommending an applicant for licensure, a licensed *[clinical]* social worker should satisfy him/herself that the applicant is of good moral character. Although a licensed *[clinical]* social worker should not become a self-appointed investigator or judge of applicants, s/he must report to the committee all unfavorable information not otherwise privileged which s/he possesses relative to the character, education, experience, citizenship, age or other qualifications of an applicant.

(4) A licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder and registrant shall be subject to discipline if s/he has made a materially false statement, or if s/he has deliberately failed to disclose a material fact requested in connection with his/her application.

(5) A licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder, registrant and applicant shall respond to all requests for information and/or all other correspondence from the committee. Failure to provide the requested information may be cause for denial of licensure, permit and/or registration of supervision.

(6) Licensed *[clinical]* social workers, provisional licensed *[clinical]* social workers, temporary permit holders and registrants shall not engage in any activity that exploits clients, students or supervisees, including sexual intimacies, which means physical or other contact by either the licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder, registrant or the client, including, but not limited to:

(C) Kissing by either the licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder, registrant or client;

(D) Touching or caressing by either the licensed *[clinical]* social worker, provisional *[licensing clinical]* licensed social worker, temporary permit holder, registrant or client of the other person's legs, thighs, stomach, chest, breasts, genitals or buttocks, clothed or unclothed;

(7) A licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder and registrant shall report to the committee any known or suspected violation(s) of the laws or regulations promulgated by the committee governing the practice of *[clinical]* social work **or baccalaureate social work** which do not violate a client's right to privacy.

AUTHORITY: *sections 337.600, 337.615, 337.650, 337.665, 337.677 and 337.680, RSMo Supp. 2003 and 337.627 and 337.630, RSMo [Supp. 1998] 2000. Original rule filed Sept. 18, 1990,*

effective Feb. 14, 1991. Rescinded and readopted: Filed Dec. 30, 1998, effective July 30, 1999. Amended: Filed March 15, 2004.

PUBLIC COST: *This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

PRIVATE COST: *This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

NOTICE TO SUBMIT COMMENTS: *Anyone may file a statement in support of or in opposition to this proposed amendment with Vanessa Beauchamp, Executive Director, State Committee for Social Workers, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 526-3489, or via e-mail at lcsww@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 263—State Committee for Social Workers Chapter 3—Ethical Standards/Disciplinary Rules

PROPOSED AMENDMENT

4 CSR 263-3.040 Client Relationships. The board is proposing to amend the Purpose and the language in sections (1)–(13).

PURPOSE: *The purpose of this amendment is to implement changes made to sections 337.612–337.689, RSMo pursuant to House Bill 567 of the 91st General Assembly.*

PURPOSE: *This rule is promulgated pursuant to section 337.630.2(15), RSMo [Supp. 1997] 2000 and sets forth the ethical standards/disciplinary rules for client relationships.*

(1) A licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder and registrant shall not enter into or continue a dual or multiple relationship, including social relationship, business relationship or sexual relationship, as defined by the committee, with a current client or with a person to whom the licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder or registrant has at anytime *[within the previous twenty-four (24) months]* rendered psychotherapy (**clinical social work**) or other professional social work services for the treatment or amelioration of mental and emotional conditions. Business relationships do not include purchases made by the licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder or registrant from the client when the client is providing necessary goods or services to the general public, and the licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder or registrant determines that it is not possible or reasonable to obtain the necessary goods or services from another provider.

(2) Licensed *[clinical]* social workers, provisional licensed *[clinical]* social workers, temporary permit holders and registrants shall be alert to and avoid conflicts of interest that interfere with the exercise of professional discretion and impartial judgment.

(3) Licensed *[clinical]* social workers, provisional licensed *[clinical]* social workers, temporary permit holders and registrants should make clear to clients the purposes, goals, techniques, rules of procedure and limitations that may affect the professional relationship at or before the time that it is begun. Licensed *[clinical]* social workers, provisional licensed *[clinical]* social workers, temporary permit holders and registrants shall not provide professional services to

clients without being able to justify the basis upon which those services are rendered.

(4) A licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder and registrant should be aware of his/her own mental health and emotional stability and the effect those have on his/her ability to provide appropriate services to clients. A licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder and registrant shall not undertake or continue a professional relationship with a client when the competency of the licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder and registrant is or reasonably could be expected to be impaired due to mental, emotional, physiologic, pharmacologic or substance abuse conditions. If that condition develops after a professional relationship has been initiated, the licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder and registrant shall notify the client in writing of the termination of services and shall assist the client in obtaining services from another professional.

(5) A licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder and registrant shall not undertake and/or continue a professional relationship with a client when the objectivity or competency of the licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder or registrant is, or reasonably could be expected to be, impaired because of present or previous familial, social, sexual, emotional, financial, supervisory, political, administrative or legal relationship with the client. If that dual relationship develops or is discovered after the professional relationship has been initiated, the licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder and registrant shall terminate the professional relationship in an appropriate manner, shall notify the client in writing of this termination and shall assist the client in obtaining services from another professional.

(6) Licensed *[clinical]* social workers, provisional licensed *[clinical]* social workers, temporary permit holders and registrants should be knowledgeable about the services available in the community and make appropriate referrals for their therapeutic clients. When a licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder or registrant has a relationship, particularly of an administrative, supervisory and/or evaluative nature, with an individual seeking counseling services, the licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder or registrant shall not serve as the therapist for such individual but shall refer the individual to another professional.

(7) A licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder and registrant must inform therapeutic clients about electronic recording of sessions, how such sessions will be used and provide specific information about any specialized or experimental activities in which they may be expected to participate as a condition of service.

(8) A licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder and registrant shall terminate a professional relationship when it is reasonably clear that the client is not benefiting from the relationship or when the service has been satisfactorily rendered.

(9) A licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder and registrant shall protect clients against physical threats, intimidation and coercion in the provision of social services insofar as is reasonably possible.

(10) A licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder and registrant shall not attempt any intervention unless thoroughly trained in its use or under the supervision of an expert.

(11) A licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder and registrant rendering therapeutic services to a client shall maintain professional records that include:

(F) A copy of a written communication with the client identifying the date and reason for termination of professional service if the licensed *[clinical]* social worker is in private practice.

(12) For the purpose of these rules, the licensed *[clinical]* social worker and temporary permit holder shall assure that professional records are maintained for at least five (5) years after the date of service is terminated.

(13) The licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder and registrant shall not falsify or permit the unauthorized destruction of client records.

AUTHORITY: sections 337.600 and 337.615, *RSMo Supp. 2003 and 337.627 and 337.630, RSMo [Supp. 1998] 2000*. Original rule filed Sept. 18, 1990, effective Feb. 14, 1991. Rescinded and readopted: Filed Dec. 30, 1998, effective July 30, 1999. Amended: Filed March 15, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Vanessa Beauchamp, Executive Director, State Committee for Social Workers, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 526-3489, or via e-mail at lcsww@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 263—State Committee for Social Workers Chapter 3—Ethical Standards/Disciplinary Rules

PROPOSED AMENDMENT

4 CSR 263-3.140 Competence. The board is proposing to amend the language in sections (1)–(12).

PURPOSE: The purpose of this amendment is to implement changes made to sections 337.612–337.689, *RSMo* pursuant to House Bill 567 of the 91st General Assembly.

(1) *[Clinical social work is a broad area covering many areas of social work.]* Licensed *[clinical]* social workers, provisional licensed *[clinical]* social workers, temporary permit holders and registrants shall limit their practice to the area(s) for which they are trained.

(2) Licensed *[clinical]* social workers, provisional licensed *[clinical]* social workers, temporary permit holders and registrants shall utilize consultation on an as-needed, self-determined basis.

(3) Licensed *[clinical]* social workers, provisional licensed *[clinical]* social workers, temporary permit holders and registrants shall be knowledgeable about how and when to utilize the expertise of other professional disciplines for their clients.

(4) Licensed *[clinical]* social workers, provisional licensed *[clinical]* social workers, temporary permit holders and registrants shall maintain their accessibility to clients.

(5) Licensed *[clinical]* social workers, provisional licensed *[clinical]* social workers, temporary permit holders and registrants shall make every effort to foster maximum self-determination on the part of the client.

(6) A licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder and registrant shall stress the personal risks involved in any services and help clients explore their readiness to face these risks.

(7) A licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder and registrant shall promote the welfare of clients in the selection, utilization and interpretation of assessment measures and strategies of intervention.

(8) A licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder and registrant shall recognize the effects of socioeconomic, ethnic, gender, sexual orientation, disability and racial and cultural factors on clients in assessment and planning services.

(9) When a client's judgement is seriously impaired, a licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder and registrant shall use careful deliberation before assuming responsibility for the client. The client should resume responsibility for him/herself as quickly as possible.

(10) A licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder and registrant shall not engage in the practice of clinical social work or **baccalaureate social work** beyond the scope of his/her competence, as is demonstrated by his/her education, training or experience. A licensed *[clinical]* social worker, provisional licensed *[clinical]* social worker, temporary permit holder and registrant shall make a referral to other professionals when the services required are beyond his/her competence.

(11) Licensed *[clinical]* social workers, provisional licensed *[clinical]* social workers, temporary permit holders and registrants shall seek treatment for their own medical, substance abuse, psychological and emotional problems to ensure that their personal problems do not interfere with their ability to provide services to clients.

(12) A licensed *[clinical]* social worker shall take all necessary and reasonable steps to maintain continued competence in the practice of clinical social work or **baccalaureate social work** by completing at least thirty (30) clock hours of continuing education on or before the expiration of the license for each renewal period.

AUTHORITY: sections 337.600, 337.615, 337.618, 337.650, 337.662, 337.665, 337.677 and 337.680, *RSMo Supp. 2003 and 337.627 and 337.630, RSMo [Supp. 1998] 2000*. Original rule filed Sept. 18, 1990, effective Feb. 14, 1991. Rescinded and readopted: Filed Dec. 30, 1998, effective July 30, 1999. Amended: Filed July 26, 1999, effective Jan. 30, 2000. Amended: Filed March 15, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Vanessa Beauchamp, Executive Director, State Committee for Social Workers, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 526-3489, or via e-mail at lcsww@mail.state.mo.us. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 10—Adjutant General
Chapter 11—State Emergency Management Agency**

PROPOSED AMENDMENT

11 CSR 10-11.020 [Resources Management Plan] Emergency Operations Plan (State). The director is amending section (1) to correct the title of the state plan and correct the Title and Purpose section.

PURPOSE: This amendment is to change the title from *Resource Management Plan* to the *State of Missouri Emergency Operations Plan* as used in the chapter.

PURPOSE: The State Emergency Management Agency, [o]Office of the [a]Adjutant [g]General has the authority to establish a plan for emergency management of resources as required by section 44.010, *RSMo*.

(1) The *[Resources Management Plan] State of Missouri Emergency Operations Plan* contains plans for emergency management of resources and administration of economic controls as may be needed to provide for the welfare of the people either on order of or at the request of the federal government or in the event the federal government is incapable of administering control.

AUTHORITY: sections 44.010 to 44.130, *RSMo [1986] 2000 and Supp. 2003*. Original rule filed Dec. 20, 1966, effective Dec. 30, 1966. For intervening history, please consult the *Code of State Regulations*. Amended: Filed March 4, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Craig Rodick, State Emergency Management Agency, PO Box 116, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 10—Adjutant General
Chapter 11—State Emergency Management Agency**

PROPOSED AMENDMENT

11 CSR 10-11.070 Political Subdivision Assistance. The director is amending section (2) and adding a new section (3).

PURPOSE: This amendment is changing section (2) wording where it states "personnel having qualifications and expertise," "to state-designated personnel" to provide a means of reimbursing those necessary, extraordinary costs associated with mutual assistance. Section (3) is being added to allow the State Emergency Management Agency the flexibility of using qualified contracted or temporary hire personnel to accomplish this task.

(2) Inspections and estimates of eligible losses shall be made and determined by state agency [personnel having qualifications and expertise] or state-designated personnel.

(3) In the event that mutual assistance within the state is directed by the governor, or his designated representative, those eligible, extraordinary costs associated with that assistance may be reimbursed by the Missouri Disaster Fund; subject to the availability of funds and the eligibility requirements established by the director of the State Emergency Management Agency.

AUTHORITY: section 44.032, RSMo [1986] 2000. Original rule filed Jan. 6, 1986, effective April 14, 1986. Amended: Filed March 20, 1989, effective June 29, 1989. Amended: Filed March 4, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Craig Rodick, State Emergency Management Agency, PO Box 116, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 10—Adjutant General
Chapter 11—State Emergency Management Agency**

PROPOSED AMENDMENT

11 CSR 10-11.080 Individual Assistance. The director is amending section (3).

PURPOSE: This amendment will allow the state the flexibility to address the life safety needs of disaster victims within the state.

(3) Assistance will be provided when funds are available for essential repairs, items of equipment, supplies or services necessary to reestablish the household, as determined by the director of the State Emergency Management Agency[, and will not exceed one thousand dollars (\$1,000) for each eligible applicant].

AUTHORITY: section 44.032, RSMo [1986] 2000. Original rule filed Jan. 6, 1986, effective April 14, 1986. Amended: Filed March 20, 1989, effective June 29, 1989. Amended: Filed March 4, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Craig Rodick, State Emergency Management Agency, PO Box 116, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 10—Adjutant General
Chapter 11—State Emergency Management Agency**

PROPOSED AMENDMENT

11 CSR 10-11.100 Major Disasters, Presidentially Declared. The director is deleting part of section (1) and adding section (2).

PURPOSE: This amendment will allow us to cover the state's share of disaster related costs in a federally declared disaster.

(1) The Missouri Disaster Fund is not intended to replace federal disaster assistance under Public Law 93-288 which may be available when major disasters occur and which provides a wide range of assistance in accordance with federal regulations. [The Missouri Disaster Fund is enacted to provide relief for political subdivisions and individuals when the magnitude and impact of disaster is below the level of eligibility for application to the federal government for a major disaster declaration but which would have a severe impact to a community or to individuals.]

(2) The Missouri Disaster Fund may be used to provide the state portion of the nonfederal share for federally declared disasters. The governor will decide the state's contribution to the nonfederal share.

AUTHORITY: section 44.032, RSMo [1986] 2000. Original rule filed Jan. 6, 1986, effective April 14, 1986. Amended: Filed March 4, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Craig Rodick, State Emergency Management Agency, PO Box 116, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 10—Adjutant General
Chapter 11—State Emergency Management Agency**

PROPOSED AMENDMENT

11 CSR 10-11.110 Limitations. The director is amending section (1).

PURPOSE: This amendment is to provide more efficient disaster operations. This change would allow the governor to grant the director of the State Emergency Management Agency the authority to expend funds up to the estimated total for the event.

(1) The director of the State Emergency Management Agency shall administer the Missouri Disaster Fund and shall not make any expenditure from the fund in excess of one thousand dollars (\$1,000) unless approved by the governor prior to expenditure. **At the discretion of the governor, and based on the total estimated expenditures for the disaster event, the governor may grant the director of the State Emergency Management Agency the authority to expend funds up to the estimated total for the event.** Expenditures shall be for immediate and necessary needs, personnel and/or equipment to reduce the imminent impact of the incident. Expenditures must be documented and will be subject to state audit.

AUTHORITY: section 44.032, RSMo [1986] 2000. Original rule filed Jan. 6, 1986, effective April 14, 1986. Amended: Filed March 20, 1989, effective June 29, 1989. Amended: Filed March 4, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Craig Rodick, State Emergency Management Agency, PO Box 116, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 10—Adjutant General
Chapter 11—State Emergency Management Agency**

PROPOSED AMENDMENT

11 CSR 10-11.120 Volunteer Inspectors Administrative Plan (State). The director is amending section (1).

PURPOSE: This amendment is to address any possible disaster event.

(1) The purpose of the administrative plan is to fulfill the requirements of the legislation to establish and administer an emergency volunteer program. These volunteers are to be Missouri registered professional architects and engineers that will be used to assist local officials in the inspection of buildings after the occurrence of *[an earthquake or other natural]* **a catastrophic natural, or man-made** disaster. These volunteers will be utilized for a period of three (3) days during which their incidental expenses will be paid by the local jurisdiction. They will have immunity from personal liability except in cases of willful misconduct or gross negligence.

AUTHORITY: section 44.023, RSMo Supp. [1991] 2003. Original rule filed March 31, 1994, effective Sept. 30, 1994. Amended: Filed March 4, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Craig Rodick, State Emergency Management Agency, PO Box 116,

Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 10—Adjutant General
Chapter 11—State Emergency Management Agency**

PROPOSED AMENDMENT

11 CSR 10-11.210 General Organization Missouri Emergency Response Commission. The director is amending section (1).

PURPOSE: This amendment is to clarify that the director of SEMA has the responsibility for oversight, as well as day-to-day operations.

(1) The Department of Public Safety is authorized under sections 292.600–292.625, RSMo to administer the state and the federal Emergency Planning and Community Right-to-Know Act (EPCRA). The State Emergency Management Agency (SEMA) has been designated by the Department of Public Safety to provide the day-to-day operation *[of]* **and oversight of the Missouri Emergency Response Commission (MERC)**, the EPCRA Program and the Hazardous Materials Emergency Preparedness (HMEP) Program.

AUTHORITY: section 292.613, RSMo 2000. This rule previously filed as 11 CSR 40-4.010. This rule also filed as 10 CSR 24-1.010. Original rule filed Nov. 30, 1983, effective April 12, 1984. Emergency amendment filed Dec. 2, 1992, effective Jan. 1, 1993, expired April 20, 1993. Amended: Filed Oct. 5, 1992, effective April 8, 1993. Amended: Filed Nov. 5, 1993, effective June 6, 1994. Changed to 11 CSR 10-11.210. Amended: Filed Dec. 19, 2001, effective June 30, 2002. Amended: Filed March 4, 2004.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Craig Rodick, State Emergency Management Agency, PO Box 116, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 11—Anhydrous Ammonia**

ORDER OF RULEMAKING

By the authority vested in the director of agriculture under section 266.355, RSMo 2000, the director amends a rule as follows:

2 CSR 90-11.010 ANSI K61.1-1981, Safety Requirements for the Storage and Handling of Anhydrous Ammonia **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 15, 2003 (28 MoReg 2211). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 30—Petroleum Inspection**

ORDER OF RULEMAKING

By the authority vested in the director of agriculture under section 414.142, RSMo 2000, the director amends a rule as follows:

2 CSR 90-30.050 Inspection of Premises **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 15, 2003 (28 MoReg 2211-2212). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 9—Wildlife Code: Confined Wildlife:
Privileges, Permits, Standards**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-9.353 Privileges of Class I and Class II Wildlife Breeders **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 2, 2004 (29 MoReg 162). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission (commission or PSC) under sections 386.250 and 393.140, RSMo 2000, and 393.1015.11, RSMo Supp. 2003, the commission adopts a rule as follows:

4 CSR 240-3.265 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 3, 2003 (28 MoReg 1901-1905). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rule was held on December 10, 2003, and the public comment period ended December 4, 2003. At the public hearing, Warren Wood, Manager of the Energy Department of the Commission, explained the development of the proposed rule and presented commission staff's (staff) responses to all the comments received by the filing deadline regarding the proposed rule through an exhibit that was marked as Exhibit No. 1 and entered into the record. Staff also suggested changes to the rule in its comments filed on December 4, 2003. Brian T. McCartney, attorney on behalf of Atmos Energy Corporation, Laclede Gas Company and Missouri Gas Energy (Missouri Gas Utilities), Thomas M. Byrne, attorney for

AmerenUE, Diana M. Vuylsteke, attorney on behalf of Missouri Industrial Energy Consumers (MIEC) and John B. Coffman, Public Counsel (OPC) also submitted written comments on the proposed rule on or before December 4, 2003. Warren Wood and Tim Schwarz of staff, John Coffman of OPC, Brian McCartney on behalf of Missouri Gas Energy, Mike Pendergast and Glen Buck of Laclede Gas Company, Jim Fischer on behalf of Atmos Energy and AmerenUE, Dean Cooper on behalf of Aquila and Diana Vuylsteke on behalf of Missouri Industrial Energy Consumers testified at the public hearing on December 10, 2003.

COMMENT: Staff proposed that subsection (1)(E) of the proposed rule be changed to reflect the additional language in their December 4, 2003 comments.

RESPONSE AND EXPLANATION OF CHANGE: The commission has reviewed the changes to subsection (1)(E) that the staff provided in their December 4, 2003 comments and finds that these suggested changes provide clarification without deviating from the intent of the governing statutes. The commission will incorporate this language into the rule.

COMMENT: Brian T. McCartney, Attorney with Brydon, Swearingen & England on behalf of Missouri Gas Utilities commented that "For all of these reasons, the Missouri Gas Utilities respectfully request that the Commission modify both sections (8) and (9) of the Proposed Rule so as to eliminate the separate line-item billing requirement." Brian T. McCartney, on behalf of Missouri Gas Energy, further testified during the public hearing that staff's proposed removal of "line-item" in section (8)(C) of the proposed rule does not remove the line-item requirement from the rule since the rule still requires that each bill identify the existence and the amounts of the infrastructure system replacement surcharges (ISRS). At the public hearing, Mike Pendergast of Laclede Gas Company echoed Mr. McCartney's comments. At the public hearing, Jim Fisher, attorney on behalf of Atmos Energy and AmerenUE, also echoed the comments of Mr. McCartney and those of Laclede Gas Company.

RESPONSE: The commission has reviewed the suggested changes of the Missouri Gas Utilities on this issue and will not incorporate these suggested changes into the rule. The public notice requirements of sections (8) and (9) of the proposed rule are permitted under the statutes and are necessary if the public is to be informed of these surcharges on their bills.

COMMENT: Staff recommended in its Exhibit No. 1 ". . . that the changes detailed in its comments filed on December 4, 2003 be implemented to subsections (8)(A) and (8)(C). Staff's recommended change to subsection (8)(A) simplifies the notice requirement somewhat while retaining information that the customer should be provided with. Staff's recommended change to subsection (8)(C) removes the "line-item" requirement since it is not staff's intent to prescribe a format for the surcharge description on customer bills."

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered staff's comments on subsections (8)(A) and (8)(C) and agrees that these changes to the proposed rule will simplify the notice requirement while still preserving the needed information for customers to better understand these surcharges on their bills. The commission has further modified sections (8) and (9) of the rule to clarify that the commission shall approve these notices before they are sent to customers.

COMMENT: John B. Coffman, OPC commented that "Paragraph (9) of 4 CSR 240-3.265 as proposed, sets out the timetable for a gas utility to provide examples of customer notifications and billings for Commission approval. This proposed requirement is consistent with Commission practice in other rate cases and is essential to ensure accurate information is conveyed to customers who have no alternative provider from whom to receive utility service. Public Counsel would recommend that this paragraph also permit Public Counsel to

submit comments on the proposed notice submitted to the Commission."

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered this suggested change to the proposed rule and has added a provision to section (9) of the rule that specifies that OPC may submit comments regarding these notices to the commission.

COMMENT: John B. Coffman, OPC, testified at the public hearing that OPC disagrees that providing line-item billing information regarding the surcharge would be in violation of the statute. Mr. Coffman further testified that this may be a matter of commission discretion but the use of the word "surcharge" is, in the opinion of OPC, intended to be a separate line-item.

RESPONSE AND EXPLANATION OF CHANGE: As previously noted, the commission will require that this surcharge be identified on customer bills so that they will be provided with the needed information to better understand these charges.

COMMENT: The staff proposed that additional language be added to section (9) of the proposed rule to provide for OPC's comments regarding the public notices required by sections (8) and (9) of the proposed rule in its Exhibit No. 1.

RESPONSE AND EXPLANATION OF CHANGE: As noted in a previous response, the commission has added a provision to section (9) of the rule that specifies that OPC may submit comments regarding these notices to the commission.

COMMENT: Staff proposed that section (10) be changed to reflect the additional language in their December 4, 2003 comments.

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered the change to section (10) proposed by the staff and finds that this change is consistent with the statute and will implement this additional language into the rule.

COMMENT: Staff recommended that a number of changes be made to section (11) of the proposed rule in its Exhibit No. 1.

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered the section (11) changes that staff proposed in its Exhibit No. 1 and finds that these changes provide clarification to the rule without deviating from the language of the governing statutes.

COMMENT: Brian T. McCartney, Attorney w/Brydon, Swearingen & England on behalf of Missouri Gas Utilities commented that "The words 'the provisions of this rule and' should accordingly be eliminated from section (11) of the Proposed Rule."

RESPONSE: The commission has considered the changes to section (11) that the Missouri Gas Utilities submitted in their December 4, 2003 filing with the comments that staff made in its Exhibit No. 1. The commission has adopted the revised language proposed by staff to section (11) of the rule. The language in section (11) of the proposed rule that states ". . . provided pursuant to this rule. . ." does not conflict with the statute. The proposed rule provides clarification as to what information the parties will require in order to review the ISRS. The data requirements contained in the rule are consistent with the statute. The statute clearly states that parties may review the supporting documentation of the utility in order to develop their recommendations regarding the ISRS petition of the utility. Stating that the utility shall provide data "pursuant to this rule" if the rule is asking for data necessary for compliance with the review provisions of the statute is not in conflict with the statute.

COMMENT: Brian T. McCartney, Attorney w/Brydon, Swearingen & England on behalf of Missouri Gas Utilities commented that "Accordingly, the words 'this rule and' should be eliminated from section (13) of the Proposed Rule."

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered the proposed change to section (13) of the

proposed rule and agrees that removal of this language is consistent with the governing statute's provisions and will be deleted.

COMMENT: John B. Coffman, OPC commented that "Paragraph (13) of 4 CSR 240-3.265 as proposed, is consistent with RSMo 393.1015.2 (4), with minor wording changes that Public Counsel does not believe changes the intent or directive of the statute. However, Public Counsel recommends insertion of the phrase from the statute 'pursuant to the provisions of sections 393.1009 to 393.1015' after the word 'commission' at the end of the proposed paragraph for clarification."

RESPONSE: As noted in a previous response, the commission has removed the reference to "this rule and" in front of "sections 393.1009 and 393.1015, RSMo." This revision clarifies that the provisions of section (13) are specific to the provisions of the governing statutes. The commission does not believe that the additional language suggested by OPC is needed in this section in addition to the changes to this section the commission has already made.

COMMENT: In its Exhibit No. 1 and December 4, 2003 comments the staff suggested that "this rule and" be removed from section (13) of the proposed rule for consistency with the statutes. In its Exhibit No. 1, staff did not believe that additional changes were needed in section (13) of the proposed rule to address OPC's comment.

RESPONSE AND EXPLANATION OF CHANGE: As previously noted, the commission agrees with this comment and has incorporated the language revision proposed by staff.

COMMENT: Diana M. Vuylsteke, Attorney w/Bryan Cave, LLP on behalf of MIEC commented that "The MIEC recommends that the Commission's rules expressly provide the following: The Monthly ISRS shall vary according to customer class and shall be calculated based on customer numbers as determined during the most recent general rate proceeding of the gas corporation so long as the monthly ISRS for each customer class maintains a proportional relationship equivalent to the proportional relationship of the monthly customer charge for each customer class."

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered this recommended addition to the proposed rule and agrees with the comment. A new section (14) has been added to the rule that incorporates the language from section 393.1015.5(1).

COMMENT: The staff proposed in its Exhibit No. 1 that the language suggested by MIEC be added to the proposed rule.

RESPONSE AND EXPLANATION OF CHANGE: As noted in a previous response, the commission has added a new section (14) to the rule that incorporates the language from section 393.1015.5(1).

COMMENT: John B. Coffman, OPC commented that "Paragraph (16) of 4 CSR 240-3.265 as proposed, repeats significant portions of Subsection 393.1015.6(1) RSMo, however the proposed rule does not reference the consumer protections provisions of Sections 393.1015.8 and 393.1015.9 RSMo. These two statutory sections provide that ISRS charges for plant subsequently found by the Commission to be imprudently incurred or constructed are to be excluded during a general rate proceeding. The proposed rule is unclear as to what happens to ISRS charges associated with imprudent plant. The proposed rule as currently drafted does not recognize this possibility. The statutes anticipate that prudence reviews would occur during general rate cases within three years. Public Counsel believes that these statutory references to rate case reviews of prudence are vital to protect the consumer and as such should be included in the final rule approved by this Commission." In the public hearing, Mr. Coffman further testified that the proposed rule needs to provide clarification on how surcharges associated with imprudent plant will be addressed in future ISRS filings.

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered this suggested change and notes that the focus of

the proposed rule is on the provisions under which the commission will address the filing and processing of ISRS petitions. The commission is not however opposed to reproducing this statutory provision in the proposed rule. A new section (15) has been added to the proposed rule to address this suggested change.

COMMENT: The staff proposed in its Exhibit No. 1 that a new section (15) be added to the rule to address the comments of the OPC by reproducing RSMo sections 393.1015.8 and 393.1015.9 in the rule.

RESPONSE AND EXPLANATION OF CHANGE: As noted in a previous response, the commission has added a new section (15) to the rule to address this comment.

COMMENT: John B. Coffman, OPC commented that "Paragraph (17) of 4 CSR 240-3.265 as proposed contains significant portions of Subsection 393.1015.6(2) RSMo, however the proposed rule does not reference the consumer protections provisions of Sections 393.1015.8 and 393.1015.9 RSMo. These two sections provide that ISRS charges for plant subsequently found by the Commission to be imprudently incurred or constructed may be excluded during a general rate proceeding."

RESPONSE AND EXPLANATION OF CHANGE: As noted in a previous response, the commission has added a new section (15) to the rule to specifically incorporate RSMo sections 393.1015.8 and 393.1015.9 into the rule.

COMMENT: John B. Coffman, OPC commented that "The new statute does not address how any reconciled amount (either over recovery or under recovery) that exists after the ISRS has been rebased to zero should be reflected on customer bills. Public Counsel would suggest that language be included to explain how the un-reconciled amount could be handled in a manner consistent with the intent of these statutory provisions. If the reconciled amount does not meet the monetary threshold for implementation of an ISRS, the reconciled monies could be held so that future ISRS filings would be modified by the reconciled amount. If the reconciled amount achieves the monetary threshold was achieved, a new ISRS could be filed to refund or collect monies from the ratepayer as appropriate." At the public hearing, Mr. Coffman further testified of the need for this clarification in the proposed rule.

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered this comment and agrees that the proposed rule does not provide sufficient guidance on how unreconciled ISRS amounts will be addressed after general rate case proceedings. The commission has added language to sections (18) and (19) of the rule that is consistent with the filing threshold limits of the statute to address this deficiency.

COMMENT: The staff suggested in its Exhibit No. 1 that sections (2) and (17) of the proposed rule provide sufficient guidance as to how unreconciled amounts of ISRS should be addressed after a rate case.

RESPONSE AND EXPLANATION OF CHANGE: As noted in a previous response, the commission does not agree that the rule is clear in this area and has added language to sections (18) and (19) of the rule to clarify how unreconciled ISRS amounts will be addressed after a general rate proceeding.

COMMENT: Staff proposed that subsection (18)(M) of the proposed rule be changed to reflect the language proposed in its December 4, 2003 comments and its Exhibit No. 1.

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered the proposed changes to subsection (18)(M) of the proposed rule and finds that these changes make this provision of the rule consistent with the statute and will implement these changes into the rule. Due to other sections being added to the rule this change now appears in subsection (20)(I) of the rule.

COMMENT: Brian T. McCartney, Attorney w/Brydon, Swearingen & England on Behalf of Missouri Gas Utilities commented that "As a result, the Proposed Rule's attempt to alter the meaning of net original cost must be rejected for what it is—a transparent effort to interject into the ISRS process the very kind of extraneous revenue requirement and ratemaking issues that are expressly forbidden by the clear language of HB 208. To that end, Appendix 1 reflects the revisions to subsection (18)(O) of the Proposed Rule that must be made to correct this deficiency." At the public hearing, Mr. McCartney, on behalf of Missouri Gas Energy, testified that although staff has suggested another rewrite to subsection (18)(O) of the proposed rule in its Exhibit No. 1, this latest version is no more consistent with the legislative intent apparent from the statutory language itself than the earlier version. Mr. McCartney further testified that staff's most recent rewrite of the definition of the net original cost of eligible infrastructure replacement is simply not capable of being done, in addition to being contrary to the plain language of the statute. Finally, Mr. McCartney testified that Staff's proposed rewrite appears to be premised on the notion that depreciation expense is intended to provide for the replacement of facilities, which is clearly not the case as stated in section 6.03 of *Accounting for Public Utilities*. At the public hearing, Mike Pendergast of Laclede Gas Company echoed Mr. McCartney's comments. At the public hearing, Glen Buck of Laclede Gas Company testified that staff's proposed revisions to subsection (18)(O) of the proposed rule go entirely in the wrong direction in that it would be even more financially detrimental to the utilities and less consistent with what Mr. Buck believed HB 208 requires. At the public hearing, Mr. Buck also echoed some of the comments of Mr. McCartney on this issue. At the public hearing, Jim Fisher, attorney on behalf of Atmos Energy and AmerenUE, also echoed the comments of Mr. McCartney and those of Laclede Gas Company.

RESPONSE AND EXPLANATION OF CHANGE: The commission has carefully considered the changes to subsection (18)(O) proposed by the Missouri Gas Utilities and has, based on the statutes' language, changed the rule to reflect the suggested changes. Due to other sections that have been added to this rule this change now appears in subsection (20)(K).

COMMENT: Staff proposed that subsection (18)(O) should be modified to reflect the net original cost clarification language submitted in its December 4, 2003 comments and its Exhibit No. 1. At the public hearing, Tim Schwarz, attorney for staff testified in support of the language revisions staff recommended in its December 4, 2003 comments and its Exhibit No. 1.

RESPONSE: The commission has considered the statutory language associated with net original cost and cannot support the clarification language proposed by staff. The rule has not been changed to reflect this proposed language.

COMMENT: John B. Coffman, OPC commented that "Public Counsel believes that additional information which is required under the new statutes are not set out in paragraph 18. Specifically, Section 393.1009(1)(a) RSMo requires that accumulated depreciation expense and accumulated deferred income taxes associated with eligible infrastructure system replacements which are included in a currently effective ISRS be recognized in the determination of the ISRS charge. It is not readily apparent to Public Counsel where the proposed rule incorporates this required information in the list of information the utility is supposed to submit. Therefore, Public Counsel would respectfully recommend that the Commission modify the rule to require that the accumulated depreciation expense and accumulated deferred income taxes associated with each ISRS eligible property be provided as part of the data requirements to be filed with an ISRS application."

RESPONSE AND EXPLANATION OF CHANGE: This comment relates to how net original cost will be addressed by the parties when an ISRS is calculated. The commission has considered this comment

and it is addressed by the changes the commission made to subsection (18)(O) of the proposed rule. Due to other sections being added to the rule this change now appears in subsection (20)(K) of the rule.

COMMENT: Brian T. McCartney, Attorney w/Brydon, Swearingen & England on behalf of Atmos Energy Corporation, Laclede Gas Company and Missouri Gas Energy "Missouri Gas Utilities" commented that "There are also several provisions of subsection (O)—specifically subsections (O)3 and (O)6.—that appear to have no place in the rule and may have been inadvertently lifted from the water utility ISRS provisions."

RESPONSE AND EXPLANATION OF CHANGE: As noted in the next response, the commission has removed items (O)3 and (O)6 from the rule.

COMMENT: Staff commented in its Exhibit No. 1 that "Subsections (O)3 and (O)6 of the proposed rule were not lifted from the water utility ISRS provisions. These subsections were provided in this list of possible qualifying project categories to be a 'catch all' for projects that may have been appropriate but were not specifically required by a rule, regulation, statute or Commission Order. Staff does not object to removal of these subsections. Staff suggested that these subsections be removed in its comments to the rule filed on December 4, 2003. . . "

RESPONSE AND EXPLANATION OF CHANGE: The commission has reviewed the governing statutes' language and has removed subsections (O)3. and (O)6. from the rule. The statute provides clear guidance on what gas utility plant projects are eligible for ISRS consideration and the types of projects listed in the proposed rule under these subsections would not qualify for treatment.

COMMENT: Brian T. McCartney, Attorney w/Brydon, Swearingen & England on behalf of Missouri Gas Utilities commented that "Finally, to be consistent with the ISRS provisions of HB 208, subsection (P) of Section 18 should also be modified to provide that the source of any regulatory or other requirement to install facilities may also be a statute, rule or regulation, as well as a Commission Order."

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered these suggested changes to subsection (18)(P) and agrees that these changes are appropriate and will incorporate them into the rule. Due to other section additions this change now appears as subsection (20)(L).

COMMENT: Staff proposed that clarifying language be added to subsection (18)(P) of the proposed rule in its December 4, 2003 comments and its Exhibit No. 1.

RESPONSE AND EXPLANATION OF CHANGE: As noted in a previous response, the commission agrees with this additional language and it will be added to the rule. Due to other section additions this change now appears in subsection (20)(L).

COMMENT: Brian T. McCartney, Attorney w/Brydon, Swearingen & England on behalf of Missouri Gas Utilities commented that "Subsection (G), (J), (K), (L), and (M) of section (18) of the Proposed Rule also introduce additional items to be reviewed during the ISRS process that go well beyond those provided for in the ISRS provisions of HB 208." At the public hearing, Mr. McCartney testified that these additional data requirements are only necessary to assess prudence, something that can only occur in the course of a general rate case proceeding. At the public hearing, Mike Pendergast of Laclede Gas Company echoed Mr. McCartney's comments. At the public hearing, Jim Fisher, attorney on behalf of Atmos Energy and AmerenUE, also echoed the comments of Mr. McCartney and those of Laclede Gas Company.

RESPONSE AND EXPLANATION OF CHANGE: The commission has carefully reviewed the comments of the Missouri Gas Utilities and the governing statute's provisions related to the information that these subsections of the rule require that utilities provide

to the staff and OPC when they file an ISRS petition. The commission will not require that the information requested in subsections (18)(G), (18)(J), (18)(K) and (18)(L) be provided each time an ISRS petition is filed. The statute does not permit the commission to require this information be submitted with each ISRS petition. Subsections 393.1015.2(2), 393.1015.8 and 393.1015.10, RSMo provide guidance as to what factors may be considered when an ISRS petition is filed, and when the underlying cost that result in these surcharges may be examined by the staff for prudence. The staff is clearly permitted by subsection 393.1015.10, RSMo to file a complaint case, pursuant to the provisions of section 386.390, RSMo and audit a utility if conditions warrant this review. The commission will, however, require that this data be provided to the staff and OPC either when a utility files their proposed ISRS rate schedules or when they file their next general rate case after an ISRS goes into effect. These subsections will be placed in a new section (21) of the rule as subsections (21)(A), (21)(B), (21)(C) and (21)(D). Furthermore, the language in the new subsection (21)(C) will be changed to clarify that to the degree that particular projects have financing associated with them the information required in subsection (21)(C) shall be provided. Subsection (18)(M) in the proposed rule, which is now subsection (20)(I), has been changed to reflect the revised language suggested by the Missouri Gas Utilities. These changes to subsection (20)(I) of the rule are consistent with the language in the governing statute.

COMMENT: Staff proposed that subsection (18)(J) be changed to reflect the language proposed in its December 4, 2003 comments.

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered the suggested change to (18)(J) and will incorporate this change into the rule. Due to other section additions this data requirement now appears in subsection (21)(B).

COMMENT: Staff proposed that subsections (18)(G), (18)(J), (18)(K) and (18)(L) should remain in the proposed rule in its Exhibit No. 1. Staff states, "the information requested in these subsections is needed to fulfill the overall statutory obligations of the Commission related to the eligible infrastructure replacement and these surcharges."

RESPONSE AND EXPLANATION OF CHANGE: The commission considered staff's comments in its decision to retain this information in the data requirements of the rule but not make submittal of this information a requirement each time an ISRS petition is filed. As previously noted, the commission has changed the rule to require that this data be provided to the staff and OPC either when a utility files their proposed ISRS rate schedules or when they file their next general rate case after an ISRS goes into effect. These subsections will be placed in a new section (21) of the rule as subsections (21)(A), (21)(B), (21)(C) and (21)(D).

COMMENT: Thomas M. Byrne, Associate General Counsel, Ameren Services Company on behalf of Union Electric Company d/b/a AmerenUE commented that "However, AmerenUE does want to separately express its concern to the Commission that great care must be taken when attempting to develop a rule to implement statutory provisions as detailed as those found in H.B. 208. In fact, given the level of detail provided in the statute, there is a good argument that there is no need for any rule at all."

RESPONSE: The commission has thoroughly considered AmerenUE's suggestion that no rule is necessary to implement this rule. The commission's purpose in developing this rule is to implement the governing statutes in a manner that is consistent with the statutes and that provides for the timely processing of the ISRS petitions, cost true-ups and prudence reviews permitted by the statutes. The rule does ask for a significant amount of information, all of this information is either directly required for the ISRS petition review itself or for the prudence reviews that are specifically authorized by the statutes. The statutory time frames for staff and OPC analysis of

the petitions and developing recommendations and the commission's issuance of an Order require the level of detail outlined in this rule. The statute does not permit sufficient time to allow for a thorough review of the petition, development of data requests, a twenty (20)-day turnaround on responses, analysis of these initial data requests responses, a potential second round of data requests, another twenty (20)-day turnaround on responses, a staff recommendation, testimony rounds, hearings and a commission decision. The data requirements outlined in the rule will significantly simplify this process by notifying the natural gas utility what information will be required in the petition when it is filed. This up-front submittal requirement will significantly reduce the number of data requests sent to the natural gas utilities with a twenty (20)-day turnaround and hopefully reduce confusion between the parties regarding what information is needed. Outlining these requirements in the rule will also result in each of the natural gas utilities being notified up front as to what information will be required when they file their petition.

COMMENT: In response to the comments of AmerenUE regarding the need for a rule the staff, its Exhibit No. 1, commented that "... the statute specifies that any Staff report regarding its examination shall be completed not later than 60 days after the petition is filed and that any Commission Order shall be issued such that it becomes effective no later than 120 days after the petition is filed. The statute does not appear to provide for an ability to suspend the utility filing, even if the information provided by the utility is poorly organized and determined to be incomplete after the petition has been accepted. These time lines and a weakened capability to suspend the filing mandate that Staff develop a rule that is explicit in terms of what information will be needed by the Staff. Staff does not have sufficient time to review the filing of the utility, develop data requests (DR), send out DRs, wait 20 days, review DR responses, develop additional DRs where the responses received were incomplete or brought up additional questions, wait another 20 days and write a Staff report regarding the amount of the ISRS that is appropriate given the information examined by the Staff. The proposed rule basically incorporates Staff's first round of DRs in an effort to shorten the number of steps Staff will need to go through to complete the necessary reviews of the data provided by the utility. The proposed rule also provides notice to the natural gas utilities on what information they should be maintaining for submittal associated with their ISRS filings."

RESPONSE: As previously noted, the commission will adopt this rule and believes that this rule is necessary to implement the governing statutes in a manner that is consistent with the statutes and that provides for the timely processing of the ISRS petitions, cost true-ups and prudence reviews permitted by the statutes.

4 CSR 240-3.265 Natural Gas Utility Petitions for Infrastructure System Replacement Surcharges

(1) As used in this rule, the following terms mean:

(E) ISRS costs—annual depreciation expenses, and property taxes that will be due within twelve (12) months of the ISRS filing on the total cost of eligible infrastructure system replacements less annual depreciation expenses and property taxes on any related facility retirements;

(F) ISRS revenues—revenues produced through an ISRS, exclusive of revenues from all other rates and charges;

(G) Natural gas utility plant projects—projects that consist only of the following:

1. Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with state or federal safety requirements as replacements for existing facilities that have worn out or are in deteriorated condition;

2. Main relining projects, service line insertion projects, joint

encapsulation projects, and other similar projects extending the useful life, or enhancing the integrity of pipeline system components undertaken to comply with state or federal safety requirements; and

3. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States, this state, a political subdivision of this state or another entity having the power of eminent domain; provided that the costs related to such projects have not been reimbursed to the natural gas utility.

(8) The natural gas utility shall provide the following notices to its customers, with such notices to be approved by the commission in accordance with section (9) of this rule before they are sent to the customers:

(A) An initial, one (1)-time notice to all potentially affected customers, such notice being sent to customers no later than when customers will receive their first bill that includes an ISRS, explaining the subject utility's infrastructure system replacement program, explaining how its ISRS will be applied to its various customer classes and identifying the statutory authority under which it is implementing its ISRS;

(C) A surcharge description on all affected customer bills, which informs the customers of the existence and amount of the ISRS on the bills.

(9) Within twenty (20) days of the natural gas utility's filing of a petition to establish an ISRS, the subject utility shall submit the following items to the commission for approval or rejection, and the office of the public counsel may, within ten (10) days of the gas utility's filing of this information, submit comments regarding these notices to the commission:

(A) An example of the notice required by subsection (8)(A) of this rule;

(B) An example of the notice required by subsection (8)(B) of this rule; and

(C) An example customer bill showing how the ISRS will be described on affected customers' bills in accordance with subsection (8)(C) of this rule.

(10) When a natural gas utility files a petition pursuant to the provisions of this rule and sections 393.1009 to 393.1015, RSMo, the commission shall conduct an examination of the proposed ISRS.

(11) The staff of the commission may examine the information of the natural gas utility provided pursuant to this rule and sections 393.1009 to 393.1015, RSMo, to confirm the underlying costs and proper calculation of the proposed ISRS, and may submit a report regarding its examination to the commission not later than sixty (60) days after the natural gas utility files its petition. The staff shall not examine any other revenue requirement or ratemaking issues in its consideration of the petition or associated proposed rate schedules.

(13) If the commission finds that a petition complies with the requirements of sections 393.1009 to 393.1015, RSMo, the commission shall enter an order authorizing the natural gas utility to impose an ISRS that is sufficient to recover appropriate pretax revenues, as determined by the commission.

(14) The monthly ISRS shall vary according to customer class and shall be calculated based on the customer numbers reported in the most recent annual report of the natural gas utility so long as the monthly ISRS for each customer class maintains a proportional relationship equivalent to the proportional relationship of the monthly customer charge for each customer class.

(15) Commission approval of a petition, and any associated rate schedules, to establish or change an ISRS pursuant to sections 393.1009 to 393.1015, RSMo, shall in no way be binding upon the commission in determining the ratemaking treatment to be applied to

eligible infrastructure system replacements during a subsequent general rate proceeding when the commission may undertake to review the prudence of such costs. In the event the commission disallows, during a subsequent general rate proceeding, recovery of costs associated with eligible infrastructure system replacements previously in an ISRS, the natural gas utility shall offset its ISRS in the future as necessary to recognize and account for any such overcollections. Nothing in this rule or section 393.1015, RSMo, shall be construed as limiting the authority of the commission to review and consider infrastructure system replacement costs along with other costs during any general rate proceeding of any natural gas utility.

(16) A natural gas utility may effectuate a change in an ISRS no more often than two (2) times during every twelve (12)-month period, with the first such period beginning on the effective date of the rate schedules that establish an initial ISRS. For the purposes of this section, an initial ISRS is the first ISRS granted to the subject utility or an ISRS established after an ISRS is reset to zero pursuant to the provisions of section (18) of this rule.

(17) At the end of each twelve (12)-month period that an ISRS is in effect, the natural gas utility shall reconcile the differences between the revenues resulting from the ISRS and the appropriate pretax revenues as found by the commission for that period and shall submit the reconciliation and proposed ISRS rate schedule revisions to the commission for approval to recover or refund the difference, as appropriate.

(18) A natural gas utility that has implemented an ISRS shall file revised ISRS rate schedules to reset the ISRS to zero when new base rates and charges become effective following a commission order establishing customer rates in a general rate proceeding that incorporates eligible costs previously reflected in an ISRS into the subject utility's base rates. If an over or under recovery of ISRS revenues, including any commission ordered refunds, exists after the ISRS has been reset to zero, that amount of over or under recovery shall be tracked in an account and considered in the next ISRS filing of the natural gas utility. The commission shall reject an ISRS petition after a commission order in a general rate proceeding unless the ISRS revenues requested in the petition, on an annualized basis, will produce ISRS revenues of at least the lesser of one-half of one percent (1/2%) of the natural gas utility's base revenue level approved by the commission in the natural gas utility's most recent general rate case proceeding or one (1) million dollars, but not in excess of ten percent (10%) of the subject utility's base revenue level approved by the commission in the utility's most recent general rate proceeding.

(19) Upon the inclusion of eligible costs previously reflected in an ISRS into a natural gas utility's base rates, the subject utility shall immediately thereafter reconcile any previously unreconciled ISRS revenues, and track them per section (18) of this rule, as necessary to ensure that revenues resulting from the ISRS match, as closely as possible, the appropriate pretax revenues as found by the commission for that period.

(20) At the time that a natural gas utility files a petition with the commission seeking to establish, change or reconcile an ISRS, it shall submit proposed ISRS rate schedules and its supporting documentation regarding the calculation of the proposed ISRS with the petition, and shall serve the office of the public counsel with a copy of its petition, its proposed rate schedules and its supporting documentation. The subject utility's supporting documentation shall include workpapers showing the calculation of the proposed ISRS, and shall include, at a minimum, the following information:

(A) The state, federal, and local income or excise tax rates used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those tax rates;

(B) The regulatory capital structure used in calculating the proposed ISRS, and an explanation of the source of and the basis for using that capital structure;

(C) The cost rates for debt and preferred stock used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those cost rates;

(D) The cost of common equity used in calculating the proposed ISRS, and an explanation of the source of and the basis for using that equity cost;

(E) The property tax rates used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those tax rates;

(F) The depreciation rates used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those depreciation rates;

(G) The applicable customer class billing units used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those billing units;

(H) An explanation of how the proposed ISRS is being proportioned between affected customer classes, if applicable;

(I) An explanation of how the infrastructure replacement projects associated with the ISRS do not increase revenues by directly connecting the infrastructure replacement to new customers;

(J) An explanation of when the infrastructure replacement projects associated with the ISRS were completed and became used and useful;

(K) For each project for which recovery is sought, the net original cost of the infrastructure system replacements (original cost of eligible infrastructure system replacements, including recognition of accumulated deferred income taxes and accumulated depreciation associated with eligible infrastructure system replacements which are included in a currently effective ISRS), the amount of related ISRS costs that are eligible for recovery during the period in which the ISRS will be in effect, and a breakdown of those costs identifying which of the following project categories apply and the specific requirements being satisfied by the infrastructure replacements for each:

1. Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with state safety requirements;

2. Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with federal safety requirements;

3. Main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects undertaken to comply with state safety requirements;

4. Main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects undertaken to comply with federal safety requirements;

5. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States;

6. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of this state;

7. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of a political subdivision of this state; and

8. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of an entity other than the United States, this state, or a political subdivision of this state, having the power of eminent domain;

(L) For each project for which recovery is sought, the statute, commission order, rule, or regulation, if any, requiring the project; a description of the project; the location of the project; what portions of the project are completed, used and useful; what portions of the

project are still to be completed; and the beginning and planned end date of the project.

(21) In addition to the information required by section (20) of this rule, natural gas utilities shall, either when they file their proposed ISRS rate schedules or when they file their next general rate case after an ISRS goes into effect, submit, at a minimum, the following supporting documentation to staff and the office of the public counsel, for each ISRS filed since the utility's last general rate case:

(A) An explanation of how long any infrastructure that was replaced associated with the ISRS had been installed when it was removed or abandoned;

(B) An explanation of the efforts of the natural gas utility to quantify and to seek reimbursement of any costs associated with relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States, this state, a political subdivision of this state, or another entity having the power of eminent domain, which could offset the requested ISRS revenues;

(C) If any infrastructure replacement projects associated with the ISRS were funded through financing arrangements directed toward these projects, an explanation of how the infrastructure replacement projects were funded, including the amount of any debt and the interest rate on that debt; and

(D) An explanation of the request for proposal (RFP) process, or the reasons for not using an RFP process, used to establish what entity performed the infrastructure replacement projects associated with the proposed ISRS.

(22) In addition to the information required by section (20) of this rule, the natural gas utility shall also provide the following information when it files a petition with the commission seeking to establish, change or reconcile an ISRS:

(A) A description of all information posted on the subject utility's website regarding the infrastructure system replacement surcharge and related infrastructure system replacement projects; and

(B) A description of all instructions provided to personnel at the subject utility's call center regarding how those personnel should respond to calls pertaining to the ISRS.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 3—Filing and Reporting Requirements

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.250 and 393.140, RSMo 2000 and 393.1006.10, RSMo Supp. 2003, the commission adopts a rule as follows:

4 CSR 240-3.650 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 3, 2003 (28 MoReg 1907-1910). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments regarding this proposed rule from the PSC staff, the Office of the Public Counsel (OPC) and Missouri-American Water Company (MAWC). The period for receiving written comments on this proposed rule ended on December 4, 2003. The commission held a public hearing on this proposed rule on December 11, 2003 and received comments regarding this proposed rule from representatives of all of the above-referenced entities at that hearing.

Comments received addressed the need for the rule in general and various specific provisions of the proposed rule. The comments regarding the need for the rule will be addressed first below, with comments regarding specific provisions of the rule then being addressed in order by rule section.

COMMENT: Missouri-American Water Company stated that the proposed rule is not necessary, due to the specificity of the enabling statute, and said that sections (1) through (7), (10), (12), and (15) through (17) unnecessarily restate certain provisions of House Bill 208.

RESPONSE: The commission has considered the comment and will not delete the rule in its entirety, as requested, because there is a need to specify the procedures to be followed in implementing the statute, and the statute permits the restatement of the statute in order to make the requirements of the rule easier to understand.

COMMENT: The staff of the Public Service Commission recommended that subsection (1)(E) of the proposed rule be revised to make clear that the annual depreciation expenses and property taxes that are included in "ISRS costs" are those that apply to eligible infrastructure system replacements, reduced by depreciation expenses and property taxes on any related facility retirements.

RESPONSE AND EXPLANATION OF CHANGE: The commission has reviewed the changes suggested by the staff and finds that these suggested changes provide clarification without deviating from the intent of the governing statutes. The commission will incorporate this language into the rule.

COMMENT: Missouri-American Water Company commented that the requirements in sections (8) and (9) of the proposed rule that a water corporation provide its customers with an initial notice, and annual notices thereafter, regarding ISRS filings, is not found in the provisions of House Bill 208 and is contrary to the provisions of section 393.1006.10, RSMo. Missouri-American estimates that this notice requirement will cause additional costs of about one hundred ninety-five thousand dollars (\$195,000) per year to be borne by its St. Louis County customers.

RESPONSE: The commission has reviewed the changes suggested by Missouri-American, and will not incorporate these suggested changes into the rule. The public notice requirements of sections (8) and (9) of the proposed rule are permitted under the statutes and are necessary if the public is to be informed of these surcharges on their bills.

COMMENT: Missouri-American Water Company commented that the requirement in sections (8) and (9) of the proposed rule that a water corporation provide a line-item description of the surcharge is inconsistent with House Bill 208 and is contrary to the provisions of section 393.1006.10, RSMo. Missouri-American states, however, that it is not opposed to establishing such a billing structure, but it estimates that the line-item billing requirement will cause additional reprogramming costs amounting to about ten thousand dollars (\$10,000).

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and will delete the words "line-item" from subsection (8)(C) of the rule.

COMMENT: The Office of the Public Counsel stated that customer notification as to the potential cost of essential public services regulated by the commission is of paramount importance, and therefore supports the notice requirements in section (8) of the proposed rule. It said the requirement of subsection (8)(C) that the ISRS charge be set out separately on a customer's bill is consistent with the goal of providing bills with a clear and concise format, and said that since the ISRS is a separate tariffed rate, it cannot be simply combined with other tariffed rates.

RESPONSE AND EXPLANATION OF CHANGE: The commis-

sion agrees with the comment. The commission will revise section (8) of the proposed rule, to make it consistent with section (9) of the proposed rule, by requiring that the notices submitted pursuant to section (9) be approved by the commission before they are sent to the water corporation's customers. In addition, in section (7), the words "provide notice" will be changed to "publish notice," to make it consistent with section 393.1006.1(2), RSMo.

COMMENT: The Office of the Public Counsel recommended that the provisions of section (9) be expanded to permit the OPC to submit comments on the proposed notice that the water corporation provides to the commission.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees, and will insert language to permit the Office of the Public Counsel to submit comments within ten (10) days after the water corporation's filing. Allowing the Office of the Public Counsel to submit comments is consistent with commission practice and will facilitate the consideration of an application for an ISRS. The commission will also insert the words "or rejection" after the word "approval," to clarify that the commission may reject notices that do not comply with the rule.

COMMENT: The staff of the Public Service Commission recommended that four (4) changes be made to sections (8) and (9), for purposes of clarification and/or in response to comments received. It suggested that: the phrase "explaining how it will calculate its ISRS" be deleted from subsection (8)(A); the term "line-item" be deleted from subsection (8)(C); the term "initial, one-time" be deleted from subsection (9)(A); and that the word "annual" be deleted from subsection (9)(B).

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and will make the recommended changes.

COMMENT: Missouri-American Water Company stated that the provision of section (11) of the proposed rule that authorizes the staff of the commission to examine the information provided by the water corporation to determine whether the underlying costs comply with the provisions of the rule as well as House Bill 208 violates the provisions of section 393.1006.2(2), RSMo, which states that the only information that the staff may examine is that which is necessary to confirm whether the costs are in accordance with House Bill 208. Missouri-American states that that the same deficiency exists in section (13) of the proposed rule, which would require water corporations who seek an ISRS to comply with not only House Bill 208, but also with the proposed rule. Missouri-American states that the words "the provisions of this rule and" should be deleted from section (11), and the words "this rule and" should be deleted from section (13).

RESPONSE AND EXPLANATION FOR CHANGE: The commission agrees and will make the following changes. In section (11), the words "are in accordance with the provisions of this rule and sections 393.1000 to 393.1006, RSMo," will be deleted and the words "provides pursuant to the provisions of this rule and sections 393.1000 to 393.1006, RSMo," will be inserted after the words "eligible water utility." These changes are made to show that the water corporation must supply information in accordance with the rule, but the rule does not change the criteria for evaluating the information that is supplied. The commission will also delete the words "this rule and" from section (13), for the same reasons.

COMMENT: The Office of the Public Counsel recommended that, for purposes of clarification, the statutory words "pursuant to the provisions of sections 393.1000 to 393.1006" be inserted after the word "commission" at the end of proposed section (13).

RESPONSE: The commission has reviewed the recommendation of the Public Counsel, and will not make the suggested change, which would unnecessarily repeat the section's prior reference to the same statutory sections.

COMMENT: The staff of the Public Service Commission recommended that two (2) changes be made to sections (10) and (13), for purposes of clarification and/or in response to comments received. It suggested that: a reference to the applicable statutory provisions be inserted in section (10); and that the phrase “this rule and” be deleted from the first line of section (13).

RESPONSE AND EXPLANATION FOR CHANGE: The commission agrees and will make the recommended changes, as described above.

COMMENT: Missouri-American Water Company contended that the words “with the first such period beginning on the effective date of the rate schedules that establish an initial ISRS,” which are included in section (14) of the proposed rule, are inconsistent with the provisions of section 393.1006.3, and should be deleted, because they may intimate a limitation on a water corporation’s ability to seek an ISRS.

RESPONSE: The commission has reviewed the change suggested by Missouri-American and will not incorporate the recommended change into the rule. The language that Missouri-American sought to delete provides clarification about the computation of time associated with implementation of the rule and does not limit a water corporation’s ability to seek an ISRS.

COMMENT: The Office of the Public Counsel noted that section (16) of the proposed rule does not refer to the consumer protection provision of sections 393.1006.8 and 393.1006.9, which provide that ISRS charges for plant investment that is subsequently found to be imprudent be excluded during a general rate proceeding. OPC states that it is unclear what happens to ISRS charges that are associated with imprudent plant investment. It believes that these statutory references to rate case reviews of prudence are vital to protect consumers, and should be included in the rule.

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered this suggested change and notes that the focus of the proposed rule is on the provisions under which the commission will address the filing and processing of ISRS petitions. The commission is not, however, opposed to reproducing this statutory provision in the proposed rule. A new section (14) has been added to the proposed rule to address this suggested change, and succeeding sections have been renumbered accordingly.

COMMENT: The Office of the Public Counsel noted that section (17) of the proposed rule does not refer to the consumer protection provision of sections 393.1006.8 and 393.1006.9, which provide that ISRS charges for plant investment that is subsequently found to be imprudent be excluded during a general rate proceeding. OPC added that the new statute does not address how any overrecovery or underrecovery that exists after the ISRS has been rebased to zero should be reflected on customer bills. It suggests that language be added to explain how the unreconciled amount could be handled in a manner that is consistent with the statute.

RESPONSE AND EXPLANATION OF CHANGE: The commission has considered this comment and agrees that the proposed rule does not provide sufficient guidance on how unreconciled ISRS amounts will be addressed after general rate case proceedings. The commission has added language to sections (17) and (18) to require the water corporation to track such overrecovery or underrecovery, for consideration in the water corporation’s next ISRS filing that it submits pursuant to the provisions of section (2) of the rule.

COMMENT: Missouri-American Water Company commented that subsection (18)(G) of the proposed rule seeks to impermissibly change the meaning of the words “net original cost of eligible infrastructure system replacements,” as used in section 393.1000.1 (a), RSMo, by appearing to define “net original cost of infrastructure system replacements” to mean “total cost [of such replacements] less the net book value of any related facility retirements.” Missouri-

American states that there is nothing in the language of House Bill 208 to suggest that “the net book value of related facility retirements” may be considered when calculating ISRS revenues. It contends that it is untenable to suggest that the “net original cost of eligible infrastructure replacements” means something other than the original cost (net of depreciation) of the specific infrastructure replacement facilities that are eligible for inclusion in an ISRS. Missouri-American asserts that there is nothing in House Bill 208 to indicate that the net book value of noneligible infrastructure retirements may be considered when determining what level of ISRS revenues is needed to permit recovery of eligible infrastructure replacement costs.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and will make the following changes. The definition of “net original cost of eligible infrastructure system replacements,” which was shown in parentheses in the proposed rule, will be changed to read: “original cost of eligible infrastructure system replacements, net of the accumulated deferred income taxes and the accumulated depreciation associated with these replacements.” This corresponds with the apparent legislative intent that the accumulated deferred income taxes and accumulated depreciation offset be limited to the infrastructure system replacements that are the subject of the ISRS application. This definition will also be moved to paragraph 1 of subsection (1)(A), because when a rule defines terms, the definition should appear where the term is first used. Also, the words “related ISRS costs” will be changed to “ISRS costs related to the eligible replacements,” for the reasons mentioned above.

COMMENT: Missouri-American Water Company stated that subsections (18)(I), (M), and (N) of the proposed rule introduce additional items to be reviewed during the ISRS process beyond those provided for in House Bill 208. It added that while some of this information might be relevant in a prudence review that is conducted as part of a general rate case, it is not the kind of informational items that a utility should be required to provide when filing for an ISRS. It argued that these provisions are inconsistent with section 393.1006.2(2) and violate section 393.1006.10, and that they should be eliminated.

RESPONSE AND EXPLANATION OF CHANGE: The commission has reviewed the changes suggested by Missouri-American and will not incorporate the recommended change to subsection (18)(I) of the proposed rule. The information described in this subsection is needed to determine whether the project is ISRS-eligible and to properly determine the amount of the ISRS. The commission agrees that the informational items described in subsections (18)(M) and (N) of the proposed rule may not be required when a utility files for an ISRS, but finds that they are relevant in a prudence review. Therefore, the commission will allow this information to be provided in either a general rate case filing or in an ISRS filing. These two (2) subsections will be moved from section (18) of the proposed rule, to section (20) of the rule, which pertains to items that may be supplied in either an ISRS filing or in a general rate case filing.

COMMENT: The Office of the Public Counsel recommends adding language to subsection (18)(I) that mirrors the language in the proposed gas ISRS rule (proposed as 4 CSR 240-3.625(18) (M), (N), and (P)). OPC says this would facilitate verification that the property is eligible for inclusion in the ISRS determination.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees, in part, and will insert subsection (O), providing: “An explanation of how the infrastructure replacement projects associated with the ISRS do not increase revenues by directly connecting the infrastructure replacement to new customers.” The commission will also insert subsection (P), providing: “An explanation of when the infrastructure replacement projects associated with the ISRS were completed and became used and useful.” The additional subsections will facilitate the determination of whether property is ISRS-eligible.

COMMENT: The Office of the Public Counsel stated that House Bill 208 requires water corporations to provide information that is not included among the list of items that section (18) of the proposed rule requires them to provide. The OPC recommends that section (18) of the proposed rule be modified to require that the accumulated depreciation expense and accumulated deferred income taxes associated with each ISRS-eligible property be provided with each ISRS filing, so they can be recognized in determining the amount of the ISRS.

RESPONSE: The commission appreciates the OPC's comments, but does not agree that the suggested changes are necessary, as it is likely that the referenced information will be provided in the workpapers showing how the petitioning water utility calculated its proposed ISRS.

COMMENT: The staff of the Public Service Commission recommended that five (5) changes be made to section (18), for purposes of clarification and/or in response to comments received. It suggested that: subsection (G) of the proposed rule be revised to better define the term "net original cost"; in subsection (H) of the proposed rule, the word "the" be inserted before the word "source"; in subsection (M) of the proposed rule, the words "incurred for" be substituted for the words "associated with," and the word "and" be deleted from the end of the subsection; the punctuation mark at the end of subsection (N) of the proposed rule be changed from a period to a semicolon; and that new subsections be added, to require water corporations to explain how the infrastructure replacement projects do not increase revenues by directly connecting to new customers, and when the infrastructure replacement projects became used and useful.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and will make the recommended changes. The reason for the change to subsection (G) is set forth above. The new subsections will be designated as subsections (19)(M) and (N) in the rule. The other changes are to improve clarity and grammar.

COMMENT: In comments at the public hearing on this rule, John Coffman, Public Counsel, suggested that this rule be consistent with the gas ISRS rule (4 CSR 240-3.625) to the extent appropriate for the different industries.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and will add subsections (20)(C) and (D) to the rule, to be consistent with the provisions of 4 CSR 240-3.625. Subsection (20)(C) will require the water corporation to submit an explanation of how long infrastructure had been in service before it was replaced or abandoned. Subsection (20)(D) will require the water corporation to submit information about the request for proposal (RFP) process used in selecting the entity that completed the infrastructure replacement projects. These informational items may be submitted either with the ISRS application or in the water corporation's next rate case, and are required for the commission's determination that the replacements were prudent.

4 CSR 240-3.650 Water Utility Petitions for Infrastructure System Replacement Surcharges

(1) As used in this rule, the following terms mean:

(A) Appropriate pretax revenues—the revenues necessary to:

1. Produce net operating income equal to the eligible water utility's weighted cost of capital multiplied by the net original cost of eligible infrastructure system replacements (original cost of eligible infrastructure system replacements, net of accumulated deferred income taxes and accumulated depreciation associated with the replacements), including recognition of accumulated deferred income taxes and accumulated depreciation associated with eligible infrastructure system replacements that are included in a currently effective ISRS;

2. Recover state, federal, and local income or excise taxes applicable to such income; and

3. Recover all other ISRS costs;

(E) ISRS costs—annual depreciation expenses, and property taxes that will be due within twelve (12) months of the ISRS filing, on the total cost of eligible infrastructure system replacements, reduced by annual depreciation expenses and property taxes on any related facility retirements;

(7) Upon the filing of a petition seeking to establish or change an ISRS, the commission will publish notice of the filing.

(8) The eligible water utility shall provide the following notices to its customers, with such notices to be approved by the commission in accordance with section (9) of this rule before they are sent to the customers:

(A) An initial, one (1)-time notice to all potentially affected customers, with such notice to be sent to customers no later than when customers will receive their first bill that includes an ISRS, explaining the subject utility's infrastructure system replacement program, explaining how its ISRS will be applied to its various customer classes and identifying the statutory authority under which it is implementing its ISRS;

(C) A surcharge description on all affected customer bills, which informs the customers of the existence and amount of the ISRS on the bills.

(9) Within twenty (20) days of the eligible water utility's filing of a petition to establish an ISRS, the subject utility shall submit the following items to the commission for approval or rejection, and the office of the public counsel may, within ten (10) days of the water utility's filing, submit comments regarding these items to the commission:

(A) An example of the notice required by subsection (8)(A) of this rule;

(B) An example of the notice required by subsection (8)(B) of this rule; and

(C) An example customer bill showing how the ISRS will be described on affected customers' bills in accordance with subsection (8)(C) of this rule.

(10) When an eligible water utility files a petition pursuant to the provisions of this rule and sections 393.1000 to 393.1006, RSMo, the commission shall conduct an examination of the proposed ISRS.

(11) The staff of the commission may examine the information the eligible water utility provides pursuant to the provisions of this rule and sections 393.1000 to 393.1006, RSMo, to confirm the underlying costs related to and the proper calculation of the proposed ISRS, and may submit a report regarding its examination to the commission not later than sixty (60) days after the eligible water utility files its petition. The staff shall not examine any other revenue requirement or ratemaking issues in its consideration of the petition or associated proposed rate schedules.

(13) If the commission finds that a petition complies with the requirements of sections 393.1000 to 393.1006, RSMo, the commission shall enter an order authorizing the eligible water utility to impose an ISRS that is sufficient to recover appropriate pretax revenues, as determined by the commission.

(14) Commission approval of a petition, and any associated rate schedules, to establish or change an ISRS pursuant to sections 393.1000 to 393.1006, RSMo, shall in no way be binding upon the commission in determining the ratemaking treatment to be applied to eligible infrastructure system replacements during a subsequent

general rate proceeding when the commission may undertake to review the prudence of such costs. In the event the commission disallows recovery of costs associated with eligible infrastructure system replacements previously collected through an ISRS, as a part of its order in a subsequent general rate proceeding, the water utility shall offset its ISRS in the future as needed to recognize and account for any such disallowances. Nothing in this rule or section 393.1006, RSMo, shall be construed as limiting the authority of the commission to review and consider infrastructure system replacement costs along with other costs during any general rate proceeding of an eligible water utility.

(15) An eligible water utility may effectuate a change in an ISRS no more often than two (2) times during every twelve (12)-month period, with the first such period beginning on the effective date of the rate schedules that establish an initial ISRS. For the purposes of this section, an initial ISRS is the first ISRS granted to the subject utility or an ISRS established after an ISRS is reset to zero pursuant to the provisions of section (17) of this rule.

(16) At the end of each twelve (12)-month period that an ISRS is in effect, the eligible water utility shall reconcile the differences between the revenues resulting from the ISRS and the appropriate pretax revenues as found by the commission for that period, and shall submit the reconciliation and proposed ISRS rate schedule revisions to the commission for approval to recover or refund the difference, as appropriate.

(17) An eligible water utility that has implemented an ISRS shall file revised ISRS rate schedules to reset the ISRS to zero when new base rates and charges become effective following a commission order establishing customer rates in a general rate proceeding that incorporates eligible costs previously reflected in an ISRS into the subject utility's base rates. If an over or under recovery of ISRS revenues, including any commission ordered refunds, exists after the ISRS has been reset to zero, the amount of over or under recovery shall be tracked in an account and considered in the water utility's next ISRS filing that it submits pursuant to the provisions of section (2) of this rule.

(18) Upon the inclusion of eligible costs previously reflected in an ISRS in an eligible water utility's base rates, the subject utility shall immediately thereafter reconcile any previously unreconciled ISRS revenues as necessary to ensure that revenues resulting from the ISRS match, as closely as possible, the appropriate pretax revenues as found by the commission for that period, and shall track such revenues pursuant to the provisions of section (17) of this rule.

(19) At the time that an eligible water utility files a petition with the commission seeking to establish, change or reconcile an ISRS, it shall submit proposed ISRS rate schedules and its supporting documentation regarding the calculation of the proposed ISRS with the petition, and shall serve the office of the public counsel with a copy of its petition, its proposed rate schedules and its supporting documentation. The subject utility's supporting documentation shall include workpapers showing the calculation of the proposed ISRS, and shall include, at a minimum, the following information:

(A) The state, federal, and local income or excise tax rates used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those tax rates;

(B) The regulatory capital structure used in calculating the proposed ISRS, and an explanation of the source of and the basis for using that capital structure;

(C) The cost rates for debt and preferred stock used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those cost rates;

(D) The cost of common equity used in calculating the proposed ISRS, and an explanation of the source of and the basis for using that equity cost;

(E) The property tax rates used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those tax rates;

(F) The depreciation rates used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those depreciation rates;

(G) The costs that are eligible for recovery during the period in which the ISRS will be in effect, including the net original cost of the infrastructure system replacements and the amount of ISRS costs related to the eligible replacements; and a breakdown of the eligible replacements identified by work order or cost center for each of the following project categories:

1. Mains, and associated valves and hydrants, installed as replacements for existing facilities that have worn out or are in deteriorated condition;

2. Main cleaning and relining projects;

3. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States;

4. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of this state;

5. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of a political subdivision of this state; and

6. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of an entity other than the United States, this state or a political subdivision of this state, having the power of eminent domain;

(H) The applicable customer class billing determinants used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those billing determinants;

(I) An explanation of how the customers to whom the proposed ISRS will apply are benefiting from the water utility plant projects that will be recovered through the ISRS;

(J) An explanation of how the proposed ISRS is being prorated between affected customer classes, if applicable;

(K) An explanation of how the proposed ISRS is being applied in a manner consistent with the customer class cost-of-service study recognized by the commission in the subject utility's most recent general rate proceeding, if applicable;

(L) An explanation of how the proposed ISRS is being applied consistent with the rate design methodology utilized to develop the subject utility's rates resulting from its most recent general rate proceeding;

(M) An explanation of how the infrastructure replacement projects associated with the ISRS do not increase revenues by directly connecting the infrastructure replacement to new customers; and

(N) An explanation of when the infrastructure replacement projects associated with the ISRS were completed and became used and useful.

(20) In addition to the information required by section (19) of this rule, the eligible water utility shall also submit the following information, either when it submits the information required by section (19) of this rule or when it files its next general rate case:

(A) An explanation of the efforts to quantify and seek reimbursement for any costs associated with facility relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States, this state, a political subdivision of this state or another entity having the power of eminent domain, which could offset the requested ISRS revenues;

(B) If any of the projects associated with the ISRS were funded through financing arrangements directed specifically to the projects,

an explanation of how the projects were funded, including the amount of debt and the interest rate on that debt;

(C) An explanation of how long any facilities that were replaced by eligible infrastructure system replacements had been in service when they were replaced or abandoned; and

(D) An explanation of the request for proposal (RFP) process used, or the reasons that a RFP process was not used, to select the entity that performed the infrastructure replacement projects associated with the ISRS.

(21) In addition to the information required by section (19) of this rule, the eligible water utility shall also provide the following information when it files a petition with the commission seeking to establish, change or reconcile an ISRS:

(A) A description of all information posted on the subject utility's website regarding the infrastructure system replacement surcharge and related infrastructure system replacement projects; and

(B) A description of all instructions provided to personnel at the subject utility's call center regarding how those personnel should respond to calls pertaining to the ISRS.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 13—Service and Billing Practices for
Residential Customers of Electric, Gas and
Water Utilities**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.250 and 393.140, RSMo 2000 and 393.130(1), RSMo Supp. 2003, the commission adopts a rule as follows:

4 CSR 240-13.035 is adopted.

A notice of the proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on December 1, 2003 (28 MoReg 2141-2144). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on January 26, 2004. The time for submission of written comments ended December 31, 2003. The commission received written comments from Kansas City Power & Light Company (KCPL); Laclede Gas Company (Laclede); Missouri Gas Energy (MGE); Ameren Services Company, Union Electric d/b/a AmerenUE (AmerenUE), and the staff of the commission. All of these utilities and Missouri American Water Company (MAWC) and the Office of the Public Counsel (OPC) attended the public hearing. At the public hearing, Lera L. Shemwell, Senior Counsel for the Staff of the Commission (staff), explained the development of the proposed amendments and presented the response of the commission staff to all written comments that were provided to the commission regarding the proposed rule. Staff's responses were in a written document that was marked Exhibit No. 1 and entered into the record. John Coffman, Public Counsel, Office of the Public Counsel, stated at the public hearing that OPC generally supported the rule as originally proposed with some slight modifications. At the public hearing Tim M. Rush, Director Regulatory Affairs, KCPL, and Michael A. Rump, Senior Attorney, Great Plains Energy Services (KCPL); Michael C. Pendergast, Vice President & Associate General Counsel, Laclede; James C. Swearingen and Brian T. McCartney, Attorneys for MGE and MAWC; and Thomas M. Byrne, Associate General Counsel, AmerenUE, all made additional comments on the record. The commission asked clarifying questions and commented.

COMMENT: The commission received four (4) comments concerning the need for the rule. KCPL, Laclede, and MGE commented generally that the scope and magnitude of inquiries and complaints concerning denial of service do not warrant promulgation of the proposed rule. AmerenUE indicated that it did not object to the concept of the rule. The staff indicated that the number of complaints regarding denial of service was increasing and that a rule similar to the discontinuance of service rule was necessary to protect consumers and to provide uniform standards for Missouri utility companies.

RESPONSE AND EXPLANATION OF CHANGE: This rule prescribes conditions under which utilities may refuse to commence service to an applicant for residential service and it establishes procedures to be followed by all regulated investor owned electric, gas and water utilities to ensure reasonable and uniform standards for denial of service to captive customers. The commission has statutory authority to promulgate rules governing how utilities provide service to the public. Case law is clear that the commission may choose whether to regulate by rulemaking or by some other method. The conditions under which a Missouri utility may refuse to provide service should be quite similar to the conditions for discontinuance of services. As a result of comments, several changes were made to section (1), including the additions of subsections (G), (H), and (I) to make the rule more similar to the discontinuance of service rule as provided by commission rule 4 CSR 240-13.050.

COMMENT: Four (4) utility companies, KCPL, Laclede, MGE and AmerenUE commented that: 1) the rule will increase the levels of uncollectible debt; 2) that the rule makes no provision for the recovery of the increased cost the utilities estimate that they may have to incur in order to comply with the rule; and 3) the rule is not revenue neutral which was both unfair to utilities and contrary to precedent before the commission and Missouri courts. At least one company said that if the commission adopted its suggestions for changes to the rule, the estimated cost of the rule would be significantly reduced. MGE suggested that its rates are lawful and that, by implication under section 386.270, the commission could not change rates in this rulemaking. Two (2) companies suggested that the rule amounts to an unconstitutional taking. Staff commented that monopoly utilities have an obligation to provide an essential service and should not be permitted to deny service to a customer in good standing because of a debt owed by another customer. The staff indicated that it is important to balance the needs of customers to receive an essential service, with the obligation of customers to pay for service that they receive, with the need to control bad debt expense, which is paid for by all customers. Staff further stated the courts have long held that a public utility has the duty to supply a commodity or furnish service to the public. This duty exists independently of statutes regulating the manner in which it shall do business, because the utility is organized to do business affected with a public interest and holds itself out to the public as being willing to serve all members of the public. A public utility is obligated by the nature of its business to furnish its service or commodity to the general public, or that part of the public that it has undertaken to serve. *Overman v. Southwestern Bell Telephone Co.*, 675 S.W.2d 419, 424 (Mo. App. 1984). Likewise, customers have an obligation to pay for the service that they use. If the individual customer does not pay, other customers pay a higher rate to cover uncollectibles.

RESPONSE AND EXPLANATION OF CHANGE: The commission has statutory authority to prescribe conditions for rendering public utility service and to assure that consumers receive safe and reliable service. The commission is authorized to promulgate rules for that purpose. The commission is not setting rates by engaging in rulemaking. As a result of comments, the commission will set November 1, 2004, as the implementation date for the rule, so that any increased costs may be considered in a pending rate case. In addition, the commission adopted other changes to section (1) by

adding subsections (G), (H) and (I), so that the rule more closely mirrored the discontinuance of service rule.

COMMENT: The commission received comments from KCPL, AmerenUE, and Laclede indicating that the denial of service rule should closely mirror the discontinuance of service rule and should: 1) include an exception for unauthorized interference, or diversion; 2) add failure to comply with a settlement agreement as a reason to deny service; and 3) include a provision that denial is permitted if the customer who owes a bill remains a tenant of the household when another person applies for service. Staff indicated that it agreed with addition of these provisions because the purpose of the rule is not to permit a customer to get service if the customer has diverted service, or failed to comply with a payment agreement into which they entered, or tried to engage in "name changing" to avoid payment to gain service. Staff stated that the rule is designed to protect customers who are otherwise in good standing from being forced to pay for the bill of another person prior to receiving service. Staff does not agree that a utility should be able to withhold service to a tenant because of a landlord's delinquent charges.

RESPONSE AND EXPLANATION OF CHANGE: As a result of these comments the commission added to section (1), subsections (G), (H), and (I) that correspond to the commission's Discontinuance of Service rule to make the Denial of Service rule more consistent with the Discontinuance of Service rule 4 CSR 240-13.050.

COMMENT: KCPL and Laclede commented concerning subsection (1)(A) of the proposed rule, that companies should be able to deny service for an applicant's failure to pay for service provided by that utility company or its affiliate in another state. KCPL urged removal of the language, "inside the state of Missouri" because customers should not be permitted to avoid the consequences of their delinquent bills by simply moving across state lines to other jurisdictions. KCPL commented that if the intent of subsection (2)(B) of the proposed rule was to restrict the transfer of prior debt that the proposed rule would significantly increase the cost of providing service to Missouri customers. The staff indicated that it agrees that a customer should not escape responsibility for payment of utility bills by crossing state lines. However, staff also commented that a utility should not deny a Missouri customer service because of a delinquent utility charge for service in another state, and, further, a utility still has all the rights it would have to collect the debt, except to deny utility service.

RESPONSE AND EXPLANATION OF CHANGE: As a result of the comments, to assure that customers receive service, but to discourage customers from moving across state boundaries to avoid payment of utility bills, the commission will remove the phrase "inside the state of Missouri." The commission will change subsection (1)(A) to include failure to pay an undisputed delinquent utility charge for service provided by that utility or its regulated affiliate. The affiliate may be regulated by another state. The commission also changed the rule to define what constitutes a disputed bill.

COMMENT: KCPL commented that the rule violated section 393.140(5).

RESPONSE: The commission did not alter the rule as a result of this comment. Case law indicates that subsection (5) of section 393.140 deals primarily with ratemaking and not rulemaking.

COMMENT: The commission received comments concerning deposit requirements from Laclede indicating that if the deposit requirements are different in a company's tariffs, the company should be permitted to deny service as a result of failure to comply with its tariff requirements, as well as failure to post a required deposit or guarantee in accordance with 4 CSR 240-13.030. Staff agreed, in this case, that utility companies which have commission approved tariffs with deposit requirements that vary from commission rules,

should be permitted to apply those tariff provisions until those provisions become congruent with commission rules.

RESPONSE AND EXPLANATION OF CHANGE: As a result of the comments, subsection (1)(B) of the rule was amended to include the phrase "or the utility's tariffs."

COMMENT: The commission received three (3) comments concerning denial of service if the customer refuses access to the company's equipment. AmerenUE, Laclede, and KCPL commented that in subsection (1)(C) of the proposed rule where the language reads "if the utility believes that health or safety is at risk," should be stricken because a utility should have access to its equipment and determine whether health or safety is at risk. Laclede commented that this is a time when customers are usually cooperative in providing access and it is important to get an initial meter reading when service is first requested. Laclede also commented that the term "fails" should be added, because a customer might not actively refuse but might fail to cooperate. Staff agreed that a utility company must have access to its equipment to read meters and check the condition of its equipment to assure that health and safety are not at risk. Staff agreed that a customer might fail to be available to provide access while still cooperating with the company.

RESPONSE AND EXPLANATION OF CHANGE: As a result of the comments, the commission changed the rule to remove the phrase: "if the utility believes that health or safety is at risk" and added the term "fails" to the rule.

COMMENT: KCPL commented that: 1) paragraph (1)(C)1. of the proposed rule, which outlines notice that should be provided to a customer should inspection, maintenance, replacement or meter reading of the utility equipment be required before establishing service, should allow for written notice in the form of a door hanger left at the applicant's premises; 2) that the statement on the notice in Spanish should not be required; and 3) that the rule should make clear that this notice is only required if the customer refuses access to the company's equipment. Laclede commented that the requirement for a notification was unnecessary and that the requirement for notification in Spanish was not necessary. Staff agreed that allowing the utilities to provide written notice in the form of a door hanger left at the applicant's premises is a reasonable form of notification but does believe that the statement on the notice in Spanish should be included when the utility prints new notices.

RESPONSE AND EXPLANATION OF CHANGE: In response to the comments, the commission added a section permitting notice by door hanger and also added language clarifying that this notice provision applies when a customer refuses inspection or access to equipment. The commission will not change the requirement for the notice to contain an explanation in Spanish.

COMMENT: MGE commented that the proposed rule constitutes unlawful single-issue ratemaking in that it makes no provision to compensate MGE for revenues that will be lost due to nullification of section 3.02 of MGE's tariff. Staff does not agree with MGE that section 3.02 of MGE's tariff will be nullified, nor does the staff agree that the proposed rule constitutes single-issue ratemaking or that it eliminates the utility's right to collect debt; the proposed rule sets forth the conditions under which a utility may deny service.

RESPONSE AND EXPLANATION OF CHANGE: As a result of these comments, the commission will make the rule effective as of November 1, 2004.

COMMENT: Several commenters urged changes to the burden of proof section. AmerenUE commented that the burden of proof requirement should be changed because, as a practical matter, utilities do not have reliable evidence showing where each person in its service territory lives at any given moment. If utilities are required to meet this standard, they will seldom, if ever, be able to apply the benefit of service rule to collect outstanding debts, and these costs

will have to be borne by the utility's other customers. Several commenters stated that the applicant should know and be able to show where he or she has lived in the past and that an applicant can easily provide evidence, in the form of leases, other documents or even sworn statements that show exactly where he or she lived during the period of time in question. Staff commented that the utility still has the right to ask an applicant to provide information on a previous residence. The purpose of the proposed rule is to eliminate the additional information requested by utilities of the applicant in attempting to prove the applicant may have resided somewhere else and may have received benefit of service at that other residence. In addition, staff does not believe that customers should be required to give information about co-occupants. OPC stated that the rule could encourage applicants to lie about others living in the residence.

RESPONSE AND EXPLANATION OF CHANGE: As a result of the comments, the commission has added language to the rule that states that the burden of proof shall not apply if the applicant refuses to cooperate in providing or obtaining information the applicant does or should have regarding the applicant's residence history.

COMMENT: AmerenUE commented that the proposed rule created a loophole by providing that the unpaid bill must not be "in dispute." AmerenUE said this provision would also make it virtually impossible for any utility to collect unpaid bills using the benefit of service rule; it stated that customers could avoid paying bills by simply continuing to dispute them indefinitely. The company offered an alternative to mitigate this loophole by requiring the unpaid bill to be subject of an open or informal complaint at the commission. The staff agrees that requiring that a disputed bill be the subject of a formal or informal complaint provides a verifiable standard for determining when a bill is in dispute. OPC was concerned that a customer should be able to have a dispute with the company and believes that the existence of a formal or informal complaint should be sufficient to invoke this provision.

RESPONSE AND EXPLANATION OF CHANGE: As a result of the comments, the commission changed subsection (1)(A) of the rule to define what constitutes a disputed bill.

COMMENT: Laclede and AmerenUE commented that the proposed rule provides that applicants are only responsible for unpaid bills incurred within the last five (5) years. AmerenUE believed this to be an arbitrary limitation on an applicant's responsibility for an unpaid bill and is inconsistent with the rules concerning discontinuance of service, which contain no such limitation. AmerenUE believes customer responsibility for unpaid bills should be limited only by the applicable statutes of limitation, not shorter periods included in a commission rule; otherwise, these costs will ultimately have to be borne by other ratepayers, who bear no responsibility for the arrearage at all. Laclede states it is able to identify hundreds of thousands of dollars in undisputed bad debts that customers have been able to avoid paying by staying out of the system five (5) or more years. Staff commented that the requirement that the bill has been incurred in the past five (5) years only applies when an applicant is being asked to pay the bill of another customer in order to receive service. Utility companies should be encouraged to collect unpaid bills promptly and the rule does not have any effect on any other collection method that the utility might use.

RESPONSE AND EXPLANATION OF CHANGE: In an attempt to balance the needs of individual customers to receive service and the needs of all customers not to have increased bad debt expense, the commission has changed the requirement to seven (7) years.

COMMENT: KCPL, Laclede, and AmerenUE commented that section (3) of the proposed rule should be changed to require provision of service to an applicant as soon as possible with no specific requirement, or should be changed to allow for five (5) business days following the date specified by the applicant for commencement of service. KCPL commented that the rule should recognize that in

some circumstances additional time may be required due to unusual circumstances, and said that the time limitation set forth in the rule should only apply to existing service. KCPL, Laclede and AmerenUE stated that new service, which requires service line extension and meter installation, may take longer and that the five (5)-day window should only start after all inspections required as a precondition of service have been completed. Two (2) utilities stated that there should be a different standard for new residential construction. Laclede commented that the language should be clarified so that the deadline for commencing service only applies upon successful completion and acceptance of the prospective customer's application for service. Staff commented that the three (3) days should usually be sufficient time to connect service. There may be times when unusual circumstances occur, such as storms, where connection within three (3) days might not be possible. Staff recommended changing the rule to say "normally" the time for connection is three (3) days. Staff agrees that the three (3)-day requirement should not start until new construction of a service line extension and meter installation was complete and all inspections have been completed.

RESPONSE AND EXPLANATION OF CHANGE: As a result of these comments, the commission has changed the rule to clarify that the rule applies to residential service and that service should be supplied in accordance with the rule as close as reasonably possible to the day specified by the customer for service to commence, but normally no later than three (3) business days following the day specified by the customer for service to commence, provided that the customer has complied with all requirements of this rule. The commission also added language to provide that when service to a new residential service location is requested, the utility shall commence service in accordance with this rule as close as reasonably possible to the day specified by the customer for service to commence, but normally no later than three (3) business days following the day all required construction is completed and all inspections have been made.

COMMENT: KCPL and AmerenUE commented that the word "temporary" in section (4) of the proposed rule should be deleted, as it should be possible for a utility to permanently refuse service for health and safety reasons. AmerenUE felt one could construe the term "temporarily" as limiting the amount of time the utility can deny service in such situations. Staff stated that the term "temporarily" could be misconstrued if a long standing health and safety issue existed. Staff, therefore, did not object to the removal of the word "temporary."

RESPONSE AND EXPLANATION OF CHANGE: As a result of comments the commission has changed the rule to include language that the utility may refuse service if safety or health is at issue until the reason for such refusal has been resolved.

4 CSR 240-13.035 Denial of Service

(1) A utility may refuse to commence service to an applicant for any of the following reasons:

(A) Failure to pay an undisputed delinquent utility charge for services provided by that utility or by its regulated affiliate. To be considered to be disputed, the unpaid charge must be the subject of an open informal or formal complaint at the commission.

(B) Failure to post a required deposit or guarantee in accordance with 4 CSR 240-13.030 or the utility's tariffs;

(C) Refusal or failure to permit inspection, maintenance, replacement or meter reading of utility equipment. If the applicant does not provide access to the utility for such purposes, the utility shall provide notice to the applicant regarding its need for inspection, maintenance, replacement or meter reading of utility equipment and shall maintain an accurate record of the notice provided.

1. The notice shall include one (1) of the following:

A. Written notice by first class mail sent to the applicant; or

- B. Written notice delivered in hand to the applicant; or
- C. At least two (2) telephone call attempts reasonably calculated to reach the applicant; or
- D. Written notice in the form of a door hanger left at the applicant's premises.

2. The notice shall contain the following information:

- A. The name and address of the applicant and the address where service is being requested;
- B. How the applicant may comply with the requirements to have service connected;
- C. A telephone number the applicant may call from the service location without incurring toll charges and the address of the utility prominently displayed where the applicant may make an inquiry;
- D. A statement in Spanish either:
 - (I) Advising the applicant that if they do not read English, to ask someone who does to translate the notice for them; or
 - (II) Advising the applicant to call the utility for assistance if the utility provides telephone assistance in Spanish;
- E. If the applicant is unable to resolve the matter satisfactorily with the utility, they may contact the Public Service Commission;
- (D) Misrepresentation of identity;
- (E) Violation of any other rules of the utility approved by the commission which adversely affects the safety of the customer or other persons or the integrity of the utility's system;
- (F) As provided by state or federal law;
- (G) Failure of a previous owner or occupant of the premises to pay a delinquent utility charge where the previous owner or occupant remains an occupant;
- (H) Failure to comply with the terms of a settlement agreement; or
- (I) Unauthorized interference, diversion or use of the utility's service by the applicant, or by a previous owner or occupant who remains an occupant.

(2) A utility may not refuse to commence service to an applicant for any of the following reasons:

- (A) Failure to pay for merchandise, appliances or services not subject to commission jurisdiction as an integral part of the utility service provided by a utility;
- (B) Failure to pay the bill of another customer, unless the applicant who is seeking service received substantial benefit and use of the service to that customer, or unless the applicant is the legal guarantor for a delinquent bill. In this instance, the utility refusing to commence service, shall have the burden of proof to show that the applicant received substantial benefit and use of the service, or that the applicant is the legal guarantor, provided that such burden shall not apply if the applicant refuses to cooperate in providing or obtaining information it does or should have regarding the applicant's residence history. To meet that burden the utility must have reliable evidence that:

- 1. The applicant and that customer resided together at the premises where the bill was incurred and during the period the bill was incurred; and
- 2. The bill was incurred within the last seven (7) years; and
- 3. The utility has attempted to collect the unpaid bill from the customer of record; and
- 4. At the time of the request for service, the bill remains unpaid and not in dispute.

(3) The utility shall commence service at an existing residential service location in accordance with this rule as close as reasonably possible to the day specified by the customer for service to commence, but normally no later than, three (3) business days following the day specified by the customer for service to commence provided that the applicant has complied with all requirements of this rule. When service to a new residential location is requested, the utility shall commence service in accordance with this rule as close as reasonably possible to the day specified by the applicant for service to com-

mence, but normally no later than three (3) business days following the day that all required construction is completed and all inspections have been made.

(4) Notwithstanding any other provision of this rule, a utility may refuse to commence service temporarily for reasons of maintenance, health, safety or a state of emergency until the reason for such refusal has been resolved.

(5) Any provision of this rule may be waived or varied by the commission for good cause.

(6) The requirements of the rule shall be implemented by the utility no later than November 1, 2004.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions,
Sampling and Reference Methods and Air Pollution
Control Regulations for the Entire State of Missouri

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission amends a rule as follows:

10 CSR 10-6.260 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 3, 2003 (28 MoReg 1911-1916). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received four (4) comments from four (4) sources: Kansas City Power and Light, City Utilities, Aquila and the Boeing Company.

COMMENT: Kansas City Power and Light (KP&L) commented that Table I referenced a state enforceable agreement for the Hawthorn and Montrose plants that established an annual sulfur dioxide emission rate rather than a three (3)-hour emission rate as indicated in the table.

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, a change has been made to Table I.

COMMENT: City Utilities commented that there are two (2) errors in the proposed Table I values for the James River Power Station (JRPS). First, Table I indicates that the sulfur dioxide emission limit for JRPS Units 1, 2, 3, and 4 is 1.4 lb/million Btu; the consent agreement limit is 1.5 lb/million Btu. Second, the consent agreement expressed the sulfur dioxide emission limits on Units 1 through 5 as twenty-four (24)-hour block averages rather than the three (3)-hour averages, shown in Table I.

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, a change has been made to Table I.

COMMENT: Aquila made the following comments on the proposed amendment. Table I changes the emission limitations for the facility listed as St. Joseph Light & Power—Lake Road Plant from 8.6 pounds of sulfur dioxide per million Btu to new limits. The consent decree sets the limit based on a twenty-four (24)-hour daily block average, however the proposed modification lists this as a three (3)-hour average. To be consistent with the conditions of the consent order, the averaging time period should be modified to a twenty-four

(24)-hour average. In Table I, boiler #6 at the Lake Road Plant is not listed as having a sulfur dioxide limit. However, the previously mentioned consent decree indicates a limit of one thousand four hundred (1,400) pounds of SO₂/hour based on a twenty-four (24)-hour average and it is suggested that another footnote be added to the table reading as follows—Boiler #6 at the Lake Road Plant is limited to a twenty-four (24)-hour daily block average of one thousand four hundred (1,400) pounds of SO₂/hour. In Table I, the Sibley Plant is listed as Missouri Public Service Company—Sibley Plant. The company name for Missouri Public Service has been changed to Aquila; therefore, it is suggested this listing be modified to read Aquila—Sibley Plant. The Lake Road Plant is listed as St. Joseph Light & Power. St. Joseph Light & Power has merged with Aquila and the surviving company name is Aquila; therefore, it is suggested the Lake Road Plant be modified to read Aquila—Lake Road Plant.

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, a change has been made to Table I.

COMMENT: The Boeing Company makes the following comments. A proposed natural/LP gas exemption at (1)(B)3.C.(I) is unnecessarily narrow in scope. As proposed, it is only an exemption from the sulfur emission limits in subsection (3)(A), and not from the remainder of the rule. The proposed exemption is further narrowed by a requirement that the natural gas/LP combustion unit be rated at ten (10) million Btu per hour or less, and not emit more than one hundred fifty (150) pounds/day of any air contaminant. This language appears to be lifted from the Missouri construction permit rule, but it has no relevance in this context. Combustion sources burning only these fuels are incapable of emitting sulfur compounds anywhere close to the lowest emission rate limitations contained in the Missouri rule. Combustion equipment that burns exclusively natural or LP gas should be explicitly and clearly exempted from this sulfur rule.

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment a change has been made in subsection (1)(A) and (1)(B). The applicability section of the rule will exempt combustion equipment that exclusively uses pipeline grade natural gas and/or liquefied petroleum gas.

10 CSR 10-6.260 Restriction of Emission of Sulfur Compounds

(1) Applicability.

(A) This rule applies to any installation that is an emission source of sulfur compounds, except—

1. Emission sources subject to an applicable sulfur compound emission limit under 10 CSR 10-6.070; or

2. Combustion equipment that uses exclusively pipeline grade natural gas as defined in 40 CFR 72.2. or liquefied petroleum gas as defined by American Society for Testing and Materials (ASTM), or any combination of these fuels.

(B) Subsection (3)(A) of this rule shall apply to all sulfur compound emissions except—

1. Indirect heating sources; or

2. Existing lead smelting and/or refining sources.

(3) General Provisions.

(C) Restriction of Emission of Sulfur Dioxide from Indirect Heating Sources.

1. Subsection (3)(C) of this rule applies to installations in which fuel is burned for the primary purpose of producing steam, hot water or hot air or other indirect heating of liquids, gases or solids and in the course of doing so the products of combustion do not come into direct contact with process materials. When any products or by-products of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitations shall apply.

2. Indirect heating sources located in Missouri, other than in Franklin, Jefferson, St. Louis, St. Charles Counties or City of St. Louis.

A. No person shall cause or allow emissions of sulfur dioxide into the atmosphere from any indirect heating source in excess of eight pounds (8 lbs.) of sulfur dioxide per million Btus actual heat input averaged on any consecutive three (3)-hour time period unless that source is listed in Table I or subject to a provision of 10 CSR 10-6.070 New Source Performance Regulations with an applicable sulfur compound emission limit.

B. The following existing indirect heating sources listed in Table I shall limit their average sulfur emissions into the atmosphere to the allowable amount of sulfur dioxide per million Btus of actual heat input averaged on any consecutive three (3)-hour basis.

Table I

Facility	Averaging Time	Emission Rate per Unit (Pounds Sulfur Dioxide Per Million Btus)
Associated Electric Cooperative—New Madrid	3 hours	10.0
Associated Electric Cooperative—Thomas Hill	3 hours	8.0
Central Electric Power Cooperative—Chamois	3 hours	6.7
City Utilities—James River Plant*	24 hours	(Units 1–4) 1.5 (Unit 5) 2.0
Empire District Electric Company—Asbury Station	3 hours	12.0
Independence Power and Light—Blue Valley Station	3 hours	6.3
Trigen—Grand Ave. Plant	3 hours	7.1
Kansas City Power & Light—Hawthorn Plant*	Annual	1.3
Kansas City Power & Light—Montrose Station*	Annual	1.3
Aquila—Sibley Plant	3 hours	9.0
Aquila—Lake Road Plant*	24 hours	(Boilers 1, 2, and 4) 0.0524 (Boiler 3) 0.0006 (Boiler 5) 1.3490 (Boiler 6)** (Combustion Turbines 5, 6, and 7) 0.0511
University of Missouri—Columbia	3 hours	8.0

* Facility is subject to State Enforceable Agreement.

** Boiler 6 at the Lake Road Plant is limited to a 24-hour daily block average of 1,400 pounds of SO₂/hour.

C. Compliance with paragraph (3)(C)2. of this rule shall be determined by source testing as specified in subsection (5)(B) of this rule.

D. Other methods approved by the staff director in advance may be used.

E. Owners or operators of sources and installations subject to paragraph (3)(C)2. of this rule shall furnish the director such data as s/he may reasonably require to determine whether compliance is being met.

3. Indirect heating sources located in Franklin, Jefferson, St. Louis, St. Charles Counties or City of St. Louis.

A. Restrictions applicable to installations with a capacity of two thousand (2,000) million or more Btus per hour.

(I) No person shall cause or permit the emission of sulfur dioxide to the atmosphere from any installation with a capacity of two thousand (2,000) million or more Btus per hour in an amount greater than two and three-tenths pounds (2.3 lbs.) of sulfur dioxide per million Btus of actual heat input averaged on any consecutive three (3)-hour time period unless that source is listed in part (3)(C)3.A.(II) of this rule or is subject to a provision of 10 CSR 10-6.070 New Source Performance Regulations with an applicable sulfur compound emission limit.

(II) The following existing installations shall limit their sulfur dioxide emissions into the atmosphere from the combustion of any fuels to the allowable amount of sulfur dioxide per million Btus of actual heat input listed:

Facility	Emission Rate per Unit* (Pounds Sulfur Dioxide Per Million Btus)
Ameren UE—Labadie Plant	4.8
Ameren UE—Portage des Sioux Plant	4.8

*Daily average, 00:01 to 24:00

(III) Owners or operators of sources and installations subject to paragraph (3)(C)3. of this rule shall furnish the director such data as s/he may reasonably require to determine whether compliance is being met.

(IV) Each source subject to limitations under subparagraph (3)(C)3.A. of this rule may emit sulfur dioxide at a rate not to exceed the allowable emission rate by more than twenty percent (20%) for not more than three (3) days in any one (1) month.

(V) Compliance with part (3)(C)3.A.(II) of this rule shall be demonstrated by sulfur dioxide and either carbon dioxide or oxygen continuous monitoring devices, which devices, within ninety (90) days of the date part (3)(C)3.A.(II) of this rule becomes effective (July 12, 1979) as to any source or before January 1, 1982, in the case of Ameren UE Company's Labadie Plant, shall be certified by the owner or operator to be installed and operational in accordance with Performance Specifications 2 and 3, 40 CFR part 60, Appendix B. The devices shall also be operated and maintained in accordance with the procedures and standards set out at 40 CFR 60.13(d) and (e)(2).

(VI) Reports shall be as specified in section (4) of this rule.

B. Restrictions applicable to installations with a capacity of less than two thousand (2,000) million Btus per hour.

(I) During the months of October, November, December, January, February and March of every year, no person shall burn or permit the burning of any coal containing more than two percent (2%) sulfur or of any fuel oil containing more than two percent (2%) sulfur in any installation having a capacity of less than two thousand (2,000) million Btus per hour. Otherwise, no person shall burn or permit the burning of any coal or fuel oil containing more than four

percent (4%) sulfur in any installation having a capacity of less than two thousand (2,000) million Btus per hour.

(II) Part (3)(C)3.B.(I) of this rule shall not apply to any installation if it can be shown that emissions of sulfur dioxide from the installation into the atmosphere will not exceed two and three-tenths (2.3) pounds per million Btus of heat input to the installation.

(III) Owners or operators of sources and installations subject to this section shall furnish the director such data as s/he may reasonably require to determine whether compliance is being met.

C. Compliance with paragraph (3)(C)3. of this rule shall be determined by source testing as specified in subsection (5)(B) of this rule.

D. Other methods approved by the staff director in advance may be used.

Title 11—DEPARTMENT OF PUBLIC SAFETY Division 80—Missouri State Water Patrol Chapter 9—Mandatory Boater Safety Education Program

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Public Safety in section 650.005, RSMo 2000, the department adopts a rule as follows:

11 CSR 80-9.010 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 2, 2004 (29 MoReg 44-49). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No written comments were received; however, one verbal comment was received on the proposed rule.

COMMENT: Mr. Randy Scherr of R.J. Scherr and Associates suggested we consider deleting section (6) from our proposed rule because it would create a new law beyond the scope of our rulemaking authority.

RESPONSE AND EXPLANATION OF CHANGE: As a result of the discussion with Mr. Scherr, the department agrees with Mr. Scherr and has chosen to delete section (6) and renumber the remaining sections accordingly.

11 CSR 80-9.010 Mandatory Boater Safety Education Program

(6) As used in section 306.127, RSMo, subsection 4, paragraph 8, the term "previously" means prior to January 1, 2005, but does not exempt the boat operator from the requirement to carry the certification card.

(7) Every non-resident boat operator pursuant to section 306.127 or 306.128, RSMo shall possess a boating safety certification card from their home state, United States Coast Guard Auxiliary, U.S. Power Squadron, or the Missouri State Water Patrol.

(8) Every resident boat operator pursuant to section 306.127 or 306.128, RSMo shall possess a certification card issued by the Missouri State Water Patrol.

Title 12—DEPARTMENT OF REVENUE Division 10—Director of Revenue Chapter 41—General Tax Provisions

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 32.065, RSMo 2000, the director amends a rule as follows:

12 CSR 10-41.010 Annual Adjusted Rate of Interest is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on January 15, 2004 (29 MoReg 90-91). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 1—Organization**

ORDER OF RULEMAKING

By the authority vested in the secretary of state under section 536.023, RSMo 2000, the secretary rescinds a rule as follows:

15 CSR 30-1.010 General Organization is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 17, 2003 (28 MoReg 2034). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 1—Organization**

ORDER OF RULEMAKING

By the authority vested in the secretary of state under section 536.023, RSMo 2000, the secretary adopts a rule as follows:

15 CSR 30-1.010 General Organization is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 17, 2003 (28 MoReg 2034-2037). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

This section may contain notice of hearings, correction notices, public information notices, rule action notices, statements of actual costs and other items required to be published in the *Missouri Register* by law.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 100—Division of Credit Unions**

**APPLICATIONS FOR NEW GROUPS OR
GEOGRAPHIC AREAS**

Pursuant to section 370.081(4), RSMo 2000, the director of the Missouri Division of Credit Unions is required to cause notice to be published that the following credit unions have submitted applications to add new groups or geographic areas to their membership.

Credit Union	Proposed New Group or Geographic Area
Health Care Family Credit Union 2114 South Big Bend St. Louis, MO 63117	Persons and families of persons who reside in or are employed in the 63143 zip code area; a low -income area.

NOTICE TO SUBMIT COMMENTS: Anyone may file a written statement in support of or in opposition to any of these applications. Comments shall be filed with: Director, Division of Credit Unions, PO Box 1607, Jefferson City, MO 65102. To be considered, written comments must be submitted no later than ten (10) business days after publication of this notice in the Missouri Register.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program**

EXPEDITED APPLICATION REVIEW SCHEDULE

The Missouri Health Facilities Review Committee has initiated review of the applications listed below. A decision is tentatively scheduled for April 22, 2004. These applications are available for public inspection at the address shown below:

Date Filed

Project Number: Project Name
City (County)
Cost, Description

02/19/04

#3597 HS: Saint Louis University Hospital
St. Louis (St. Louis City)
\$2,952,000, Replace positron emission tomography (PET) unit with a PET/CT unit

03/10/04

#3604 RS: Mapletree Terrace Assisted Living
Carthage (Jasper County)
\$400,000, Replace 13 residential care facility II beds

Any person wishing to request a public hearing for the purpose of commenting on these applications must submit a written request to this effect, which must be received by April 12, 2004. All written requests and comments should be sent to:

Chairman
Missouri Health Facilities Review Committee
c/o Certificate of Need Program
915 G Leslie Boulevard
Jefferson City, MO 65101

For additional information contact
Donna Schuessler, 573-751-6403.

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 60—Missouri Health Facilities Review Committee
Chapter 50—Certificate of Need Program**

APPLICATION REVIEW SCHEDULE

The Missouri Health Facilities Review Committee has initiated review of the applications listed below. A decision is tentatively scheduled for the May 24, 2004, Certificate of Need meeting. These applications are available for public inspection at the address shown below:

Date Filed

Project Number: Project Name
City (County)
Cost, Description

03/11/04

#3605 NS: Manor Grove
Kirkwood (St. Louis County)
\$3,560,000, Modernize facility and add ten skilled nursing facility beds

03/12/04

#3587 FS: Kansas City Oncology Hematology Group
Kansas City and Lee's Summit (Jackson County)
\$1,825,000, Replace mobile PET scanner with a mobile PET/CT scanner

Any person wishing to request a public hearing for the purpose of commenting on any of these applications must submit a written request to this effect, which must be received by April 14, 2004. All written requests and comments should be sent to:

Chairman
Missouri Health Facilities Review Committee
c/o Certificate of Need Program
915 G Leslie Boulevard
Jefferson City, MO 65101

For additional information contact
Donna Schuessler, 573-751-6403.

Contractor Debarment List

Name of Contractor	Name of Officer and Title	Address	Date of Conviction	Debarment Period
Bruner Contracting Company	Cynthia Bruner	218 Delaware, Ste. 211 Kansas City, MO 64105	9/9/03	9/9/03-9/9/04
Cynthia Bruner	N/A	218 Delaware, Ste. 211 Kansas City, MO 64105	9/9/03	9/9/03-9/9/04

The Secretary of State is required by sections 347.141 and 359.481, RSMo 2000 to publish dissolutions of limited liability companies and limited partnerships. The content requirements for the one-time publishing of these notices are prescribed by statute. This listing is published pursuant to these statutes. We request that documents submitted for publication in this section be submitted in camera ready 8 1/2" x 11" manuscript.

NOTICE OF DISSOLUTION OF CORPORATION

NOTICE OF DISSOLUTION TO ALL CREDITORS OF AND CLAIMANTS AGAINST EXECUTIVE RECRUITERS, INC., a Missouri corporation.

On October 30, 2003, Executive Recruiters, Inc., a Missouri corporation, filed its Articles of Dissolution with the Missouri Secretary of State. Dissolution was effective on November 3, 2003.

Said corporation requests that all persons and organizations with claims against it present them immediately by letter to the corporation at Yates & May, L.C., Interco Corporate Tower, 101 S. Hanley, Suite 1025, St. Louis, MO 63105.

All claims must include: the name and address of the claimant; the amount claimed; the nature of the claim; the date(s) on which the claim arose; and the alleged monetary value of the claim.

NOTICE: Because of the dissolution of Executive Recruiters, Inc., any claims against it will be barred unless a proceeding to enforce the claim is commenced within two years after the publication date of the notice authorized by statute.

Date of Publication: April 15, 2004.

Rule Changes Since Update to Code of State Regulations

This cumulative table gives you the latest status of rules. It contains citations of rulemakings adopted or proposed after deadline for the monthly Update Service to the *Code of State Regulations*, citations are to volume and page number in the *Missouri Register*, except for material in this issue. The first number in the table cite refers to the volume number or the publication year—27 (2002), 28 (2003) and 29 (2004). MoReg refers to *Missouri Register* and the numbers refer to a specific *Register* page, R indicates a rescission, W indicates a withdrawal, S indicates a statement of actual cost, T indicates an order terminating a rule, N.A. indicates not applicable, RUC indicates a rule under consideration, and F indicates future effective date.

Rule Number	Agency	Emergency	Proposed	Order	In Addition
1 CSR 10	OFFICE OF ADMINISTRATION State Officials' Salary Compensation Schedule				27 MoReg 189 27 MoReg 1724 28 MoReg 1861
1 CSR 10-4.010	Commissioner of Administration		28 MoReg 1557		
1 CSR 20-4.010	Personnel Advisory Board and Division of Personnel		This Issue		
1 CSR 35-1.050	Division of Facilities Management	28 MoReg 1983	28 MoReg 1990	29 MoReg 401	
1 CSR 35-2.030	Division of Facilities Management	28 MoReg 1984	28 MoReg 1993	29 MoReg 401	
DEPARTMENT OF AGRICULTURE					
2 CSR 10-2.010	Market Development		28 MoReg 2087	29 MoReg 482	
2 CSR 30-1.010	Animal Health		This Issue		
2 CSR 30-1.020	Animal Health		This Issue		
2 CSR 30-2.020	Animal Health	This Issue	This Issue		
2 CSR 30-2.040	Animal Health	This Issue	This Issue		
2 CSR 30-3.020	Animal Health	This Issue	This Issue		
2 CSR 30-6.020	Animal Health	This Issue	This Issue		
2 CSR 90-11.010	Weights and Measures	28 MoReg 2207	28 MoReg 2211	This Issue	
2 CSR 90-30.050	Weights and Measures		28 MoReg 2211	This Issue	
DEPARTMENT OF CONSERVATION					
3 CSR 10-6.533	Conservation Commission		29 MoReg 161		
3 CSR 10-6.550	Conservation Commission		29 MoReg 161		
3 CSR 10-9.220	Conservation Commission		28 MoReg 2212	29 MoReg 401	
3 CSR 10-9.353	Conservation Commission		29 MoReg 162	This Issue	
3 CSR 10-9.565	Conservation Commission		28 MoReg 2018	29 MoReg 216	
3 CSR 10-10.722	Conservation Commission		29 MoReg 162		
3 CSR 10-10.725	Conservation Commission		29 MoReg 164		
3 CSR 10-12.145	Conservation Commission		28 MoReg 2025	29 MoReg 219	29 MoReg 505
3 CSR 10-20.805	Conservation Commission		This Issue		
DEPARTMENT OF ECONOMIC DEVELOPMENT					
4 CSR 10-1.010	Missouri State Board of Accountancy		28 MoReg 2089 This Issue		
4 CSR 10-1.030	Missouri State Board of Accountancy		28 MoReg 2090 This Issue		
4 CSR 10-1.040	Missouri State Board of Accountancy		28 MoReg 2091R This Issue		
4 CSR 10-2.005	Missouri State Board of Accountancy		28 MoReg 2091R 28 MoReg 2091 This IssueR This Issue		
4 CSR 10-2.010	Missouri State Board of Accountancy		28 MoReg 2092R This IssueR		
4 CSR 10-2.021	Missouri State Board of Accountancy		28 MoReg 2093R This IssueR		
4 CSR 10-2.030	Missouri State Board of Accountancy		28 MoReg 2093R This IssueR		
4 CSR 10-2.041	Missouri State Board of Accountancy		28 MoReg 2093 This Issue		
4 CSR 10-2.042	Missouri State Board of Accountancy		28 MoReg 2094R This IssueR		
4 CSR 10-2.051	Missouri State Board of Accountancy		28 MoReg 2094 This Issue		
4 CSR 10-2.061	Missouri State Board of Accountancy		28 MoReg 2099 This Issue		
4 CSR 10-2.062	Missouri State Board of Accountancy		28 MoReg 2100R This IssueR		
4 CSR 10-2.070	Missouri State Board of Accountancy		28 MoReg 2101 This Issue		
4 CSR 10-2.072	Missouri State Board of Accountancy		28 MoReg 2102 This Issue		
4 CSR 10-2.075	Missouri State Board of Accountancy		28 MoReg 2105 This Issue		
4 CSR 10-2.095	Missouri State Board of Accountancy		28 MoReg 2108 This Issue		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
4 CSR 10-2.101	Missouri State Board of Accountancy		28 MoReg 2109 This IssueR		
4 CSR 10-2.111	Missouri State Board of Accountancy		28 MoReg 2110R This IssueR		
4 CSR 10-2.112	Missouri State Board of Accountancy		28 MoReg 2110R This IssueR		
4 CSR 10-2.115	Missouri State Board of Accountancy		28 MoReg 2110R This IssueR		
4 CSR 10-2.120	Missouri State Board of Accountancy		28 MoReg 2111R This IssueR		
4 CSR 10-2.130	Missouri State Board of Accountancy		28 MoReg 2111 This Issue		
4 CSR 10-2.135	Missouri State Board of Accountancy		28 MoReg 2112 This Issue		
4 CSR 10-2.140	Missouri State Board of Accountancy		28 MoReg 2112 This Issue		
4 CSR 10-2.150	Missouri State Board of Accountancy		28 MoReg 2115 This Issue		
4 CSR 10-2.160	Missouri State Board of Accountancy		28 MoReg 2115 This Issue		
4 CSR 10-2.180	Missouri State Board of Accountancy		28 MoReg 2116R This IssueR		
4 CSR 10-2.190	Missouri State Board of Accountancy		28 MoReg 2116R This IssueR		
4 CSR 10-2.200	Missouri State Board of Accountancy		28 MoReg 2116 This Issue		
4 CSR 10-2.210	Missouri State Board of Accountancy		28 MoReg 2117R This IssueR		
4 CSR 10-2.215	Missouri State Board of Accountancy		28 MoReg 2117R This IssueR		
4 CSR 10-3.010	Missouri State Board of Accountancy		28 MoReg 2117 This Issue		
4 CSR 10-3.020	Missouri State Board of Accountancy		28 MoReg 2118R This IssueR		
4 CSR 10-3.030	Missouri State Board of Accountancy		28 MoReg 2118R This IssueR		
4 CSR 10-3.040	Missouri State Board of Accountancy		28 MoReg 2119R This IssueR		
4 CSR 10-3.060	Missouri State Board of Accountancy		28 MoReg 2119 This Issue		
4 CSR 10-4.010	Missouri State Board of Accountancy		28 MoReg 2120R 28 MoReg 2120 This IssueR This Issue		
4 CSR 10-4.020	Missouri State Board of Accountancy		28 MoReg 2124R 28 MoReg 2124 This IssueR This Issue		
4 CSR 10-4.030	Missouri State Board of Accountancy		28 MoReg 2124R This IssueR		
4 CSR 10-4.031	Missouri State Board of Accountancy		28 MoReg 2124 This Issue		
4 CSR 10-4.040	Missouri State Board of Accountancy		28 MoReg 2125R This IssueR		
4 CSR 10-4.041	Missouri State Board of Accountancy		28 MoReg 2125 This Issue		
4 CSR 10-4.050	Missouri State Board of Accountancy		28 MoReg 2125R This IssueR		
4 CSR 10-5.070	Missouri State Board of Accountancy		28 MoReg 2126		
4 CSR 10-5.080	Missouri State Board of Accountancy		28 MoReg 2126		
4 CSR 10-5.090	Missouri State Board of Accountancy		28 MoReg 2130		
4 CSR 10-5.100	Missouri State Board of Accountancy		28 MoReg 2130		
4 CSR 10-5.110	Missouri State Board of Accountancy		28 MoReg 2131		
4 CSR 15-1.030	Acupuncturist Advisory Committee		This Issue		
4 CSR 15-2.020	Acupuncturist Advisory Committee		This Issue		
4 CSR 15-3.010	Acupuncturist Advisory Committee		This Issue		
4 CSR 15-4.020	Acupuncturist Advisory Committee		This Issue		
4 CSR 30-2.040	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		This Issue		
4 CSR 30-11.025	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects		This Issue		
4 CSR 70-4.010	State Board of Chiropractic Examiners		29 MoReg 88		

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4 CSR 70-4.030	State Board of Chiropractic Examiners		29 MoReg 88		
4 CSR 90-3.010	State Board of Cosmetology		28 MoReg 2133	29 MoReg 482	
4 CSR 90-5.010	State Board of Cosmetology		28 MoReg 2133	29 MoReg 482	
4 CSR 90-7.010	State Board of Cosmetology		28 MoReg 2133	29 MoReg 482	
4 CSR 90-8.010	State Board of Cosmetology		28 MoReg 2134	29 MoReg 483	
4 CSR 90-10.010	State Board of Cosmetology		28 MoReg 2134	29 MoReg 483	
4 CSR 90-11.010	State Board of Cosmetology		28 MoReg 2134	29 MoReg 483	
4 CSR 90-12.020	State Board of Cosmetology		28 MoReg 2137	29 MoReg 483	
4 CSR 90-12.070	State Board of Cosmetology		28 MoReg 2137	29 MoReg 483	
4 CSR 90-13.010	State Board of Cosmetology		28 MoReg 2137	29 MoReg 483	
4 CSR 100	Division of Credit Unions				29 MoReg 338 29 MoReg 505 29 MoReg 544 This Issue
4 CSR 110-2.130	Missouri Dental Board		29 MoReg 89		
4 CSR 110-3.010	Missouri Dental Board		This Issue		
4 CSR 110-3.020	Missouri Dental Board		This Issue		
4 CSR 110-3.030	Missouri Dental Board		This Issue		
4 CSR 110-3.040	Missouri Dental Board		This Issue		
4 CSR 110-3.050	Missouri Dental Board		This Issue		
4 CSR 120-1.010	State Board of Embalmers and Funeral Directors		29 MoReg 165		
4 CSR 120-1.020	State Board of Embalmers and Funeral Directors		29 MoReg 165		
4 CSR 120-1.040	State Board of Embalmers and Funeral Directors		29 MoReg 166		
4 CSR 120-2.010	State Board of Embalmers and Funeral Directors		29 MoReg 167R 29 MoReg 167		
4 CSR 120-2.020	State Board of Embalmers and Funeral Directors		29 MoReg 174		
4 CSR 120-2.022	State Board of Embalmers and Funeral Directors		29 MoReg 174		
4 CSR 120-2.030	State Board of Embalmers and Funeral Directors		29 MoReg 175		
4 CSR 120-2.040	State Board of Embalmers and Funeral Directors		29 MoReg 175R 29 MoReg 175		
4 CSR 120-2.050	State Board of Embalmers and Funeral Directors		29 MoReg 180		
4 CSR 120-2.060	State Board of Embalmers and Funeral Directors		29 MoReg 180R 29 MoReg 180		
4 CSR 120-2.070	State Board of Embalmers and Funeral Directors		29 MoReg 186R 29 MoReg 186		
4 CSR 120-2.071	State Board of Embalmers and Funeral Directors		29 MoReg 192		
4 CSR 120-2.080	State Board of Embalmers and Funeral Directors		29 MoReg 193		
4 CSR 120-2.090	State Board of Embalmers and Funeral Directors		29 MoReg 194		
4 CSR 120-2.100	State Board of Embalmers and Funeral Directors		29 MoReg 195		
4 CSR 120-2.110	State Board of Embalmers and Funeral Directors		29 MoReg 196		
4 CSR 120-2.115	State Board of Embalmers and Funeral Directors		29 MoReg 196		
4 CSR 165-2.010	Board of Examiners for Hearing Instrument Specialists		This Issue		
4 CSR 197-1.030	Board of Therapeutic Massage		29 MoReg 23		
4 CSR 197-1.040	Board of Therapeutic Massage		29 MoReg 23		
4 CSR 197-2.010	Board of Therapeutic Massage		29 MoReg 26		
4 CSR 197-2.030	Board of Therapeutic Massage		29 MoReg 32		
4 CSR 197-2.050	Board of Therapeutic Massage		29 MoReg 34		
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4 CSR 197-5.010	Board of Therapeutic Massage		29 MoReg 36		
4 CSR 197-5.020	Board of Therapeutic Massage		29 MoReg 36		
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4 CSR 197-5.040	Board of Therapeutic Massage		29 MoReg 41		
4 CSR 200-4.020	State Board of Nursing		This Issue		
4 CSR 205-3.030	Missouri Board of Occupational Therapy		29 MoReg 89		
4 CSR 210-2.080	State Board of Optometry		This Issue		
4 CSR 210-2.081	State Board of Optometry		This IssueR		
4 CSR 220-2.300	State Board of Pharmacy		29 MoReg 89		
4 CSR 235-1.020	State Committee of Psychologists		This Issue		
4 CSR 235-1.050	State Committee of Psychologists		This Issue		
4 CSR 240-3.165	Public Service Commission		28 MoReg 2214	29 MoReg 401	
4 CSR 240-3.190	Public Service Commission		28 MoReg 2028	29 MoReg 402	
4 CSR 240-3.245	Public Service Commission		28 MoReg 2215	29 MoReg 407	
4 CSR 240-3.265	Public Service Commission		28 MoReg 1901	This Issue	
4 CSR 240-3.335	Public Service Commission		28 MoReg 2216	29 MoReg 408	
4 CSR 240-3.435	Public Service Commission		28 MoReg 2217	29 MoReg 409	
4 CSR 240-3.440	Public Service Commission		28 MoReg 1906	29 MoReg 409	
4 CSR 240-3.500	Public Service Commission		28 MoReg 2139		
4 CSR 240-3.540	Public Service Commission		28 MoReg 2219	29 MoReg 410	
4 CSR 240-3.545	Public Service Commission		29 MoReg 369R 29 MoReg 369		
4 CSR 240-3.550	Public Service Commission		28 MoReg 2140		
4 CSR 240-3.555	Public Service Commission		29 MoReg 374		
4 CSR 240-3.640	Public Service Commission		28 MoReg 2220	29 MoReg 410	
4 CSR 240-3.650	Public Service Commission		28 MoReg 1907	This Issue	

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4 CSR 240-13.015	Public Service Commission		28 MoReg 2140	29 MoReg 411W	
4 CSR 240-13.035	Public Service Commission		28 MoReg 2141	This Issue	
4 CSR 240-18.010	Public Service Commission		28 MoReg 2030	29 MoReg 411	
4 CSR 240-32.020	Public Service Commission		28 MoReg 2145		
4 CSR 240-32.060	Public Service Commission		28 MoReg 2147		
4 CSR 240-32.070	Public Service Commission		28 MoReg 2148		
4 CSR 240-32.080	Public Service Commission		28 MoReg 2149		
4 CSR 240-32.200	Public Service Commission	29 MoReg 459	This Issue		
4 CSR 240-33.010	Public Service Commission		29 MoReg 374		
4 CSR 240-33.020	Public Service Commission		29 MoReg 374		
4 CSR 240-33.030	Public Service Commission		29 MoReg 376R		
4 CSR 240-33.040	Public Service Commission		29 MoReg 376		
4 CSR 240-33.060	Public Service Commission		29 MoReg 377		
4 CSR 240-33.070	Public Service Commission		29 MoReg 381		
4 CSR 240-33.080	Public Service Commission		29 MoReg 381		
4 CSR 240-33.110	Public Service Commission		29 MoReg 461		
4 CSR 240-33.150	Public Service Commission		29 MoReg 382		
4 CSR 240-36.010	Public Service Commission		29 MoReg 197		
4 CSR 240-36.020	Public Service Commission		29 MoReg 197		
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4 CSR 240-36.050	Public Service Commission		29 MoReg 202		
4 CSR 240-36.060	Public Service Commission		29 MoReg 203		
4 CSR 240-36.070	Public Service Commission		29 MoReg 203		
4 CSR 240-36.080	Public Service Commission		29 MoReg 204		
4 CSR 250-8.090	Missouri Real Estate Commission		28 MoReg 2150	29 MoReg 484	
4 CSR 250-8.096	Missouri Real Estate Commission		28 MoReg 2152	29 MoReg 484	
4 CSR 250-8.097	Missouri Real Estate Commission		28 MoReg 2152	29 MoReg 484	
4 CSR 263-1.035	State Committee for Social Workers		This Issue		
4 CSR 263-2.032	State Committee for Social Workers		This Issue		
4 CSR 263-2.045	State Committee for Social Workers		This Issue		
4 CSR 263-2.047	State Committee for Social Workers		This Issue		
4 CSR 263-2.060	State Committee for Social Workers		This Issue		
4 CSR 263-2.062	State Committee for Social Workers		This Issue		
4 CSR 263-2.085	State Committee for Social Workers		This Issue		
4 CSR 263-2.090	State Committee for Social Workers		This Issue		
4 CSR 263-3.020	State Committee for Social Workers		This Issue		
4 CSR 263-3.040	State Committee for Social Workers		This Issue		
4 CSR 263-3.140	State Committee for Social Workers		This Issue		
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5 CSR 80-800.200	Teacher Quality and Urban Education		28 MoReg 1771	29 MoReg 484	
5 CSR 80-800.220	Teacher Quality and Urban Education		28 MoReg 1774	29 MoReg 485	
5 CSR 80-800.230	Teacher Quality and Urban Education		28 MoReg 1776	29 MoReg 485	
5 CSR 80-800.260	Teacher Quality and Urban Education		28 MoReg 1779	29 MoReg 486	
5 CSR 80-800.270	Teacher Quality and Urban Education		28 MoReg 1782	29 MoReg 487	
5 CSR 80-800.280	Teacher Quality and Urban Education		28 MoReg 1784	29 MoReg 487	
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5 CSR 80-800.300	Teacher Quality and Urban Education		28 MoReg 1786	29 MoReg 488	
5 CSR 80-800.350	Teacher Quality and Urban Education		28 MoReg 1787	29 MoReg 488	
5 CSR 80-800.360	Teacher Quality and Urban Education		28 MoReg 1790	29 MoReg 490	
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5 CSR 80-800.400	Teacher Quality and Urban Education		28 MoReg 1800	29 MoReg 495	
5 CSR 90-7.010	Vocational Rehabilitation		28 MoReg 1800	29 MoReg 495	
5 CSR 90-7.100	Vocational Rehabilitation		28 MoReg 1801	29 MoReg 495	
5 CSR 90-7.200	Vocational Rehabilitation		28 MoReg 1801	29 MoReg 495	
5 CSR 90-7.320	Vocational Rehabilitation		28 MoReg 1802	29 MoReg 495	
5 CSR 100-200.010	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2222		
5 CSR 100-200.030	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2223		
5 CSR 100-200.040	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2223		
5 CSR 100-200.050	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2224		
5 CSR 100-200.060	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2224		
5 CSR 100-200.070	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2225		
5 CSR 100-200.075	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2225		
5 CSR 100-200.100	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2225		

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5 CSR 100-200.125	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2226		
5 CSR 100-200.130	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2226		
5 CSR 100-200.140	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2227		
5 CSR 100-200.150	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2227		
5 CSR 100-200.170	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2227		
5 CSR 100-200.180	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2230		
5 CSR 100-200.210	Missouri Commission for the Deaf and Hard of Hearing		28 MoReg 2231		
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7 CSR 10-1.020	Missouri Highways and Transportation Commission		29 MoReg 384		
7 CSR 10-17.010	Missouri Highways and Transportation Commission		28 MoReg 1563		
7 CSR 10-26.010	Missouri Highways and Transportation Commission		28 MoReg 2231		
7 CSR 10-26.020	Missouri Highways and Transportation Commission		28 MoReg 2237		
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8 CSR 30-1.010	Division of Labor Standards		28 MoReg 2030	29 MoReg 495	
8 CSR 30-4.010	Division of Labor Standards		28 MoReg 2031	29 MoReg 496	
8 CSR 30-4.020	Division of Labor Standards		28 MoReg 2031	29 MoReg 496	
8 CSR 70-1.010	Missouri Assistive Technology Advisory Council		29 MoReg 462		
8 CSR 70-1.020	Missouri Assistive Technology Advisory Council		29 MoReg 463		
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9 CSR 10-5.190	Director, Department of Mental Health		28 MoReg 2153	29 MoReg 496	
9 CSR 10-5.210	Director, Department of Mental Health		28 MoReg 2155	29 MoReg 496	
9 CSR 30-4.195	Certification Standards		29 MoReg 204		
9 CSR 45-5.105	Division of Mental Retardation and Developmental Disabilities		28 MoReg 1805	29 MoReg 497	
9 CSR 45-5.110	Division of Mental Retardation and Developmental Disabilities		28 MoReg 1805	29 MoReg 497	
9 CSR 45-5.130	Division of Mental Retardation and Developmental Disabilities		28 MoReg 1809	29 MoReg 500	
9 CSR 45-5.140	Division of Mental Retardation and Developmental Disabilities		28 MoReg 1812	29 MoReg 500	
9 CSR 45-5.150	Division of Mental Retardation and Developmental Disabilities		28 MoReg 1816	29 MoReg 501	
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10 CSR 10-2.260	Air Conservation Commission		28 MoReg 1564	29 MoReg 412	
10 CSR 10-6.240	Air Conservation Commission		29 MoReg 303R		
10 CSR 10-6.241	Air Conservation Commission		29 MoReg 303		
10 CSR 10-6.250	Air Conservation Commission		29 MoReg 307		
10 CSR 10-6.260	Air Conservation Commission		28 MoReg 1911	This Issue	
10 CSR 20-7.050	Clean Water Commission		28 MoReg 2240		
10 CSR 40-10.020	Land Reclamation Commission		29 MoReg 204		
10 CSR 40-10.050	Land Reclamation Commission		29 MoReg 205		
10 CSR 60-5.010	Public Drinking Water Program		29 MoReg 465		
10 CSR 70-5.040	Soil and Water Districts Commission	28 MoReg 1369	28 MoReg 1916	29 MoReg 502	
10 CSR 100-2.010	Petroleum Storage Tank Insurance Fund Board of Trustees		28 MoReg 2156	29 MoReg 540	
10 CSR 100-3.010	Petroleum Storage Tank Insurance Fund Board of Trustees		28 MoReg 2157	29 MoReg 540	
10 CSR 100-4.010	Petroleum Storage Tank Insurance Fund Board of Trustees		28 MoReg 2157	29 MoReg 540	
10 CSR 100-4.020	Petroleum Storage Tank Insurance Fund Board of Trustees		28 MoReg 2163	29 MoReg 540	
10 CSR 140-2.020	Division of Energy				29 MoReg 415
10 CSR 140-2.030	Division of Energy				29 MoReg 415
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11 CSR 10-11.020	Adjutant General		This Issue		
11 CSR 10-11.070	Adjutant General		This Issue		
11 CSR 10-11.080	Adjutant General		This Issue		
11 CSR 10-11.100	Adjutant General		This Issue		
11 CSR 10-11.110	Adjutant General		This Issue		
11 CSR 10-11.120	Adjutant General		This Issue		
11 CSR 10-11.210	Adjutant General		This Issue		
11 CSR 45-1.020	Missouri Gaming Commission		29 MoReg 390		
11 CSR 45-4.260	Missouri Gaming Commission		29 MoReg 535		
11 CSR 45-5.200	Missouri Gaming Commission		29 MoReg 535		

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11 CSR 45-6.030	Missouri Gaming Commission		28 MoReg 2241	29 MoReg 541W	
11 CSR 45-10.030	Missouri Gaming Commission		29 MoReg 390		
11 CSR 50-2.400	Missouri State Highway Patrol		29 MoReg 390		
11 CSR 70-2.120	Division of Alcohol and Tobacco Control		29 MoReg 43		
11 CSR 70-2.140	Division of Alcohol and Tobacco Control		29 MoReg 43		
11 CSR 75-13.030	Peace Officer Standards and Training Program		29 MoReg 310		
11 CSR 75-13.060	Peace Officer Standards and Training Program		29 MoReg 310		
11 CSR 75-14.030	Peace Officer Standards and Training Program		29 MoReg 310		
11 CSR 75-16.010	Peace Officer Standards and Training Program		29 MoReg 311		
11 CSR 80-5.010	Missouri State Water Patrol		28 MoReg 2243	29 MoReg 502	
11 CSR 80-9.010	Missouri State Water Patrol		29 MoReg 44	This Issue	
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12 CSR 10-2.055	Director of Revenue		28 MoReg 2246R	29 MoReg 541R	
12 CSR 10-2.060	Director of Revenue		28 MoReg 2246R	29 MoReg 541R	
12 CSR 10-2.235	Director of Revenue		28 MoReg 2246R	29 MoReg 541R	
12 CSR 10-7.180	Director of Revenue		28 MoReg 2246R	29 MoReg 541R	
12 CSR 10-7.210	Director of Revenue		28 MoReg 2246R	29 MoReg 541R	
12 CSR 10-7.220	Director of Revenue		28 MoReg 2247R	29 MoReg 542R	
12 CSR 10-7.290	Director of Revenue		28 MoReg 2247R	29 MoReg 542R	
12 CSR 10-7.310	Director of Revenue		28 MoReg 2247R	29 MoReg 542R	
12 CSR 10-7.330	Director of Revenue		28 MoReg 2247R	29 MoReg 542R	
12 CSR 10-23.424	Director of Revenue		28 MoReg 2032	29 MoReg 412	
12 CSR 10-23.460	Director of Revenue		28 MoReg 2248	29 MoReg 542	
12 CSR 10-24.040	Director of Revenue		28 MoReg 2032	29 MoReg 412	
12 CSR 10-24.200	Director of Revenue		28 MoReg 2033	29 MoReg 412	
12 CSR 10-24.450	Director of Revenue		28 MoReg 2034R	29 MoReg 412R	
12 CSR 10-41.010	Director of Revenue	28 MoReg 2207	29 MoReg 90	This Issue	
12 CSR 30-4.010	State Tax Commission		29 MoReg 206		
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13 CSR 35-80.010	Children's Division	29 MoReg 261	29 MoReg 311		
13 CSR 35-80.020	Children's Division	29 MoReg 262	29 MoReg 314		
13 CSR 40-2.310	Division of Family Services	28 MoReg 1421	28 MoReg 1423		
			29 MoReg 392		
13 CSR 40-2.380	Division of Family Services	28 MoReg 1421	28 MoReg 1423		
			29 MoReg 392		
13 CSR 40-19.020	Family Support Division	28 MoReg 1892	28 MoReg 1916	29 MoReg 542	
13 CSR 70-3.120	Division of Family Services		28 MoReg 2248		
13 CSR 70-10.015	Division of Medical Services	28 MoReg 1894	28 MoReg 1918	29 MoReg 543	
		28 MoReg 1985T	This Issue		
13 CSR 70-10.080	Division of Medical Services	28 MoReg 1897	28 MoReg 1924	29 MoReg 543	
		28 MoReg 1985T			
13 CSR 70-10.110	Division of Medical Services	28 MoReg 1898	28 MoReg 1926	29 MoReg 543	
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13 CSR 70-15.010	Division of Medical Services		29 MoReg 393		
13 CSR 70-15.180	Division of Medical Services		28 MoReg 2249		
13 CSR 70-20.320	Division of Medical Services		28 MoReg 2163	29 MoReg 503	
13 CSR 70-90.010	Division of Medical Services		29 MoReg 317		
13 CSR 70-91.010	Division of Medical Services		29 MoReg 317		
13 CSR 70-91.030	Division of Medical Services		29 MoReg 326		
13 CSR 70-95.010	Division of Medical Services		29 MoReg 326		
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13 CSR 70-98.015	Division of Medical Services		28 MoReg 2253		
13 CSR 70-98.020	Division of Medical Services		29 MoReg 327		
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15 CSR 30-1.010	Secretary of State		28 MoReg 2034R	This IssueR	
			28 MoReg 2034	This Issue	
15 CSR 30-8.020	Secretary of State		28 MoReg 1928	29 MoReg 543	
15 CSR 30-8.030	Secretary of State		28 MoReg 1928	29 MoReg 543	
15 CSR 30-12.010	Secretary of State		28 MoReg 1931	29 MoReg 543	
15 CSR 30-45.040	Secretary of State		28 MoReg 2037R	29 MoReg 413R	
			28 MoReg 2038	29 MoReg 413	
		28 MoReg 1626	28 MoReg 1674	29 MoReg 100	
15 CSR 30-51.171	Secretary of State		29 MoReg 400		
15 CSR 30-51.175	Secretary of State		29 MoReg 480		
15 CSR 30-54.175	Secretary of State	28 MoReg 1985	28 MoReg 2041	29 MoReg 413	
15 CSR 30-54.230	Secretary of State		28 MoReg 2041R	29 MoReg 413R	
15 CSR 30-54.240	Secretary of State		28 MoReg 2041R	29 MoReg 413R	
15 CSR 30-54.280	Secretary of State		28 MoReg 2042R	29 MoReg 413R	
15 CSR 30-55.110	Secretary of State	28 MoReg 1659	28 MoReg 1705	29 MoReg 112	
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19 CSR 15-4.060	Division of Senior Services	28 MoReg 1756	28 MoReg 1837	29 MoReg 116	
19 CSR 20-28.010	Division of Environmental Health and Communicable Disease Prevention		28 MoReg 1933	29 MoReg 503	
19 CSR 25-30.051	Division of Administration		29 MoReg 328		
19 CSR 25-33.010	Division of Administration		28 MoReg 2163	29 MoReg 503	

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19 CSR 25-34.010	Division of Administration		28 MoReg 2164R 28 MoReg 2164	29 MoReg 504R 29 MoReg 504	
19 CSR 30-82.015	Division of Health Standards and Licensure	28 MoReg 1756	28 MoReg 1837	29 MoReg 116	
19 CSR 30-82.060	Division of Health Standards and Licensure	28 MoReg 1986	28 MoReg 2042	29 MoReg 414	
19 CSR 30-82.080	Division of Health Standards and Licensure	28 MoReg 1757	28 MoReg 1838	29 MoReg 116	
19 CSR 30-82.090	Division of Health Standards and Licensure		28 MoReg 2254		
19 CSR 30-83.010	Division of Health Standards and Licensure	28 MoReg 1758	28 MoReg 1839	29 MoReg 116	
19 CSR 30-85.042	Division of Health Standards and Licensure	28 MoReg 1758	28 MoReg 1839	29 MoReg 117	
19 CSR 30-86.042	Division of Health Standards and Licensure	28 MoReg 1759	28 MoReg 1839	29 MoReg 117	
19 CSR 30-88.010	Division of Health Standards and Licensure		29 MoReg 536		
19 CSR 60-50	Missouri Health Facilities Review Committee				29 MoReg 226 This Issue
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20 CSR	Medical Malpractice				27 MoReg 415 28 MoReg 489 29 MoReg 505
20 CSR	Sovereign Immunity Limits				27 MoReg 41 27 MoReg 2319 28 MoReg 2265
20 CSR 10-1.020	General Administration		28 MoReg 1937	29 MoReg 504	
20 CSR 400-1.160	Life, Annuities and Health		29 MoReg 538		
20 CSR 400-7.095	Life, Annuities and Health		29 MoReg 328		
20 CSR 400-7.200	Life, Annuities and Health		28 MoReg 1715 29 MoReg 539		
20 CSR 600-1.020	Statistical Reporting		29 MoReg 207		
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22 CSR 10-1.010	Health Care Plan		29 MoReg 208		
22 CSR 10-1.020	Health Care Plan		29 MoReg 208		
22 CSR 10-2.010	Health Care Plan		29 MoReg 209		
22 CSR 10-2.020	Health Care Plan	29 MoReg 87	29 MoReg 209		
22 CSR 10-2.080	Health Care Plan		29 MoReg 210		

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Publication

Expires

Office of Administration

Division of Facilities Management

1 CSR 35-1.050	Public Use of State Facilities	28 MoReg 1983	April 15, 2004
1 CSR 35-2.030	Administration of the Leasing Process	28 MoReg 1984	April 15, 2004

Department of Agriculture

Animal Health

2 CSR 30-2.020	Movement of Livestock, Poultry and Exotic Animals Within Missouri	This Issue	August 27, 2004
2 CSR 30-2.040	Animal Health Requirements for Exhibition	This Issue	August 27, 2004
2 CSR 30-3.020	Brucellosis Quarantine Requirements on Cattle	This Issue	August 27, 2004
2 CSR 30-6.020	Duties and Facilities of the Market/Sale Veterinarian	This Issue	August 27, 2004

Weights and Measures

2 CSR 90-11.010	ANSI K61.1, Safety Requirements for the Storage and Handling of Anhydrous Ammonia	28 MoReg 2207	May 12, 2004
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Department of Economic Development

Public Service Commission

4 CSR 240-32.200	General Provisions for the Assignment, Provision and Termination of 211 Service	29 MoReg 459	September 10, 2004
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Department of Revenue

Director of Revenue

12 CSR 10-41.010	Annual Adjusted Rate of Interest	20 MoReg 2207	June 28, 2004
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Department of Social Services

Children's Division

13 CSR 35-80.010	Residential Foster Care Maintenance Methodology	29 MoReg 261	July 23, 2004
13 CSR 35-80.020	Residential Care Agency Cost Reporting System	29 MoReg 262	July 23, 2004

Elected Officials

Secretary of State

15 CSR 30-54.175	Solicitation of Interest	28 MoReg 1985	April 30, 2004
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Department of Health and Senior Services

Division of Health Standards and Licensure

19 CSR 30-82.060	Hiring Restrictions—Good Cause Waiver	28 MoReg 1986	April 22, 2004
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Missouri Consolidated Health Care Plan

Health Care Plan

22 CSR 10-2.020	Membership Agreement and Participation Period	29 MoReg 87	June 29, 2004
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Executive Orders

Executive Orders

Subject Matter

Filed Date

Publication

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04-01	Establishes the Public Safety Officer Medal of Valor, and the Medal of Valor Review Board	February 3, 2004	29 MoReg 294
04-02	Designates staff having supervisory authority over agencies	February 3, 2004	29 MoReg 297
04-03	Creates the Missouri Automotive Partnership	January 14, 2004	29 MoReg 151
04-04	Creates the Missouri Methamphetamine Education and Prevention Task Force	January 27, 2004	29 MoReg 154
04-05	Establishes a Missouri Methamphetamine Treatment Task Force	January 27, 2004	29 MoReg 156
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04-07	Establishes the Missouri Commission on Patient Safety and supercedes Executive Order 03-16	February 3, 2004	29 MoReg 299
04-08	Transfers the Governor's Council on Disability and the Missouri Assistive Technology Advisory Council to the Office of Administration	February 3, 2004	29 MoReg 301
04-09	Requires vendors to disclose services performed offshore. Restricts agencies in awarding contracts to vendors of offshore services	March 17, 2004	29 MoReg 533

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03-02	Establishes the Division of Family Support in the Dept. of Social Services	February 5, 2003	28 MoReg 298
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03-04	Transfers all TANF functions to the Division of Workforce Development in the Dept. of Economic Development	February 5, 2003	28 MoReg 302
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03-11	Creates the Citizens Advisory Committee on Corrections	April 1, 2003	28 MoReg 705
03-12	Declares disaster areas due to May 4 tornadoes	May 5, 2003	28 MoReg 950
03-13	Calls National Guard to assist in areas harmed by the May 4 tornadoes	May 5, 2003	28 MoReg 952
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03-15	Establishes the Missouri Small Business Regulatory Fairness Board	August 25, 2003	28 MoReg 1477
03-16	Establishes the Missouri Commission on Patient Safety	October 1, 2003	28 MoReg 1760
03-17	Creates the Governor's Committee to End Chronic Homelessness	October 8, 2003	28 MoReg 1899
03-18	Designates the Missouri State Highway Patrol within the Department of Public Safety as lead agency in state communications	December 10, 2003	29 MoReg 7
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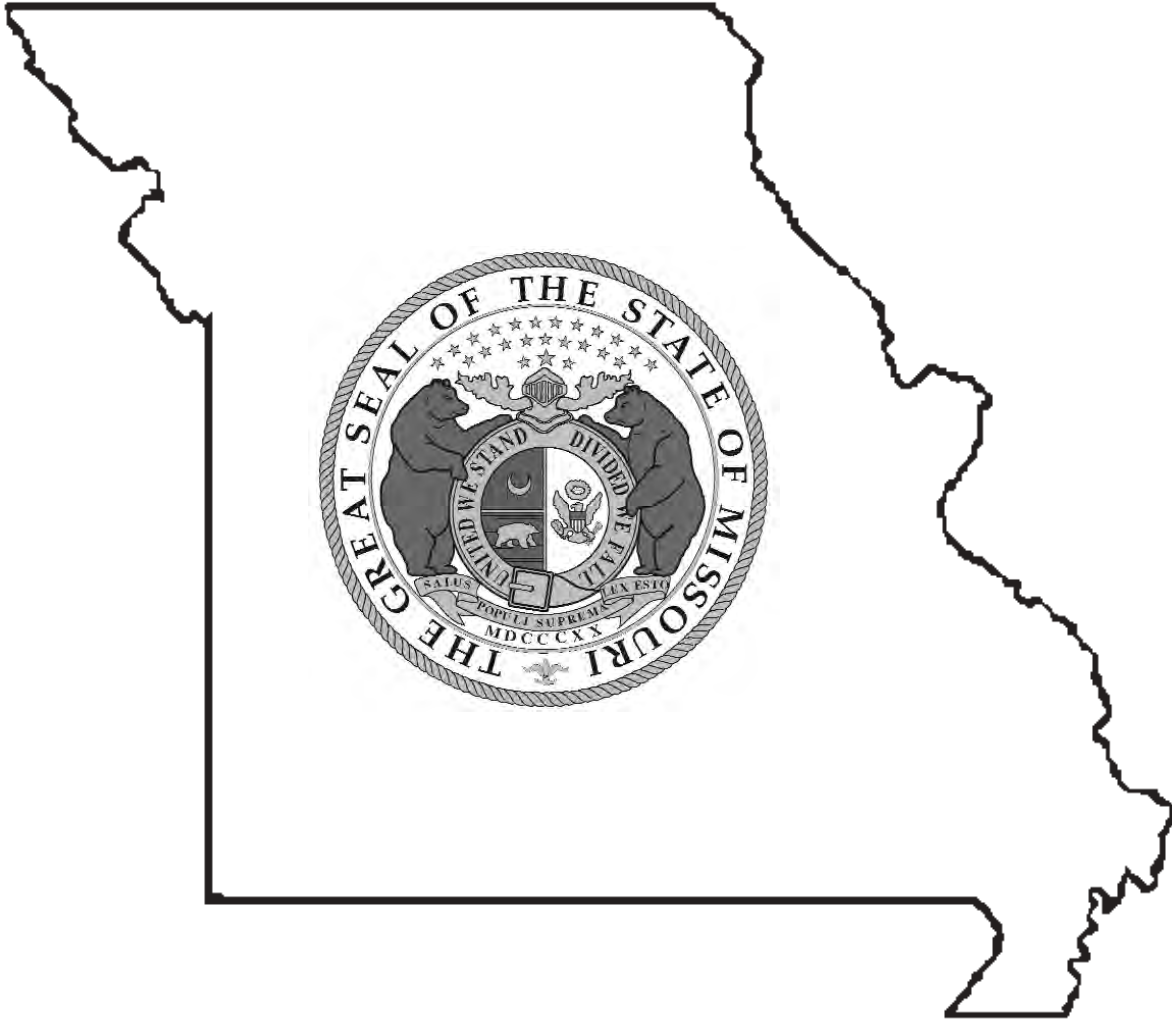
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